

SENATE—Monday, March 2, 1970

The Senate met at 11 o'clock a.m. and was called to order by the President pro tempore (Mr. RUSSELL).

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Lord of History, through whose power our fathers won their liberty, we thank Thee for the vision of a righteous nation, where people of many races and creeds dwell together in concord and work for the common good. If we forget Thee, do not forget us. If we forsake Thee, do not forsake us but hold us up and renew our faith. Be to us our Guide that we lose not our way or be overwhelmed by the magnitude of our tasks. Help us, O Lord, to be worthy to stand in this place, and with steadfast courage and unwavering hope complete the work which Thy will requires of us.

In Thy matchless name, we pray. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Saturday, February 28, 1970, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

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

ORDER FOR RECOGNITION OF SENATOR CURTIS OF NEBRASKA AFTER SENATOR FANNIN'S ADDRESS TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, following the remarks of the distinguished Senator from Arizona (Mr. FANNIN), the distinguished Senator from Nebraska (Mr. CURTIS) be recognized for not to exceed one-half hour.

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

ORDER FOR ADJOURNMENT UNTIL 11:30 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11:30 a.m. tomorrow morning.

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

ORDER FOR RECOGNITION OF SENATOR McCLELLAN TOMORROW MORNING

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclu-

sion of the prayer and approval of the Journal tomorrow, the distinguished Senator from Arkansas (Mr. McCLELLAN) be recognized for not to exceed one-half hour.

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

VOTING RIGHTS ACT AMENDMENTS OF 1969

Mr. MANSFIELD. Mr. President, at the conclusion of morning business today, what will be the pending business?

The PRESIDENT pro tempore. The clerk will state the title of the bill for the information of the Senate.

The ASSISTANT LEGISLATIVE CLERK. H.R. 4249, to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices.

The PRESIDENT pro tempore. That bill will be laid before the Senate at the conclusion of morning business today.

Mr. MANSFIELD. And it will be made the pending business at that time in accordance with the order of the Senate of December 16, 1969.

The PRESIDENT pro tempore. The Chair so understands.

Mr. MANSFIELD. I thank the Chair.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the order previously entered, the Senator from Arizona (Mr. FANNIN) is now recognized for 1 hour.

Mr. FANNIN. I thank the Chair.

THE LOSS OF AMERICAN JOBS THROUGH THE SO-CALLED FREE TRADE POLICY

Mr. FANNIN. Mr. President, last week, hundreds of American jobs were exported from our shores. Here at home, hundreds of Americans were thrown out of work.

These jobs went to Japan, to South Korea, to Taiwan, to West Germany, to Italy, and to other foreign nations that are building their industrial economies, to a considerable extent, at the expense of American industry and American labor.

This is not new. It has been going on for a long time. But it has been snowballing at an alarming rate in the last 6 or 7 years. Now it has reached such proportions that the very fiber of our industrial economy is being torn to shreds. The jobs of hundreds of thousands of American workers are gravely threatened.

I am referring to the drastic increase in the imports of manufactured goods and components from abroad—imports made under circumstances that at best can be characterized as unfair competition and at worst as economic murder.

Let me cite a few examples of what is happening:

First, A man's shirt made in the United States by Van Heusen retails here for \$8.98. An identical shirt of the same

quality made in South Korea retails here for \$2.98.

Second, The Singer Corp. is the only manufacturer of sewing machines left in this country. But Singer sells in the U.S. market two sewing machines produced in its factories abroad for every one made at its Elizabethport, N.J., plant. And employment at the Elizabethport plant has dropped from 10,000 to 2,000.

Third, Forty-eight thousand jobs were lost in the manufacture of TV sets, radios, and their components in the United States between 1966 and 1968. And these were years during which sales of these same products in this country were increasing substantially.

Fourth, Almost 12 million tape machines were sold in the United States during the past year. Of these, 90 percent were imports.

Fifth, Ninety-eight percent of the domestic portable radio market has been lost to imports.

A representative of a major corporation in this country told me that a Japanese-made color TV set which sells in Tokyo for \$1,300 can be bought in this country for less than a comparable American-made set which sells in this country for \$600. This same American set is not allowed on the Japanese market. If it were, a Japanese citizen could buy it for about \$900. And he probably would buy it rather than pay \$1,300 for its Japanese counterpart.

Multiply these situations a thousand-fold and we begin to get some idea of what is happening throughout the United States to our basic industries and to the people that work in them—in electronics, steel, electrical equipment, shoes, chemicals, autos, textiles, garments, machinery, and many, many more. They are being almost literally sold down the river.

Senators might ask, "How can this happen in these days of enlightened, free, and reciprocal trade?" Well, I suggest to my colleagues that if they lift the lid of today's so-called free and reciprocal trade, they will find a can of worms gnawing at the vitals of our economy and devouring American jobs.

I am speaking of a so-called free trade policy that has produced, in fact, an exchange of goods with other nations that is anything but free from our standpoint. I am speaking of a so-called reciprocal trade policy that is, in fact, a one-way street through which foreign producers enter and steal our domestic market. I am speaking of a so-called free and reciprocal foreign trade policy, aimed at expanding our exports, that has, in fact, brought us to the brink, if not already over the brink, of a disastrous imbalance of trade.

I am told that the true figures for last year—and they are mighty hard to come by—will show that during 1969, for the first time in our modern history, our imports exceeded our exports. I am told they will also show that thousands upon thousands of American jobs were lost in the process.

If this is so—and there is little reason to doubt that it is not—then it is high time that every Member of Congress sat up and took notice. The constitutional responsibility for this plight is ours, no one else's.

I, for one, am trying desperately to ascertain the truth. This is one of the purposes of these remarks today: to seek the help of my colleagues, of the leaders of organized labor, of industrialists, and of governmental departments, in developing the true facts. What industries have been affected and exactly how and to what extent? How many jobs have been lost and what are the projections for the future? What protections and remedies do our present laws afford? Are they being made available? Is the Treasury Department obeying the mandates of our countervailing duties statutes?

And this is vitally important: Are our antidumping laws being effectively enforced? These are only a few of the many questions that we must answer.

I am not urging a return to high tariffs. Nor am I advocating a protectionist program that ignores the realities of international economic life. But I am urging that Congress take a long, hard look at our foreign trade policy, as it actually operates today, to see whether it is truly in the best interests of this Nation. And I am advocating the determination by Congress of the validity or invalidity of the oft-repeated charge that under the lofty aegis of free trade and reciprocity we are, in fact, encouraging cheap subsidized imports, tolerating blatant barricades against our exports, and permitting the most successful and beneficial economy in the history of the world to be undermined and destroyed.

Section 8 of the Constitution of the United States specifically provides that—

The Congress shall have power . . . to regulate commerce with foreign nations.

The bestowal of that power carried with it the corresponding responsibility for its execution.

And yet for 35 years the Congress of the United States has abdicated its responsibility in the field of foreign trade. During this period, commencing with the Reciprocal Trade Agreement Act of 1935,

and reaching a high point in the Trade Expansion Act of 1962, the congressional power to regulate foreign commerce has been so extensively delegated to the executive branch as to place it virtually beyond any effective congressional control.

That Congress can constitutionally delegate its power to regulate foreign trade is beyond question, but there is every indication that we have gone much too far. And most certainly Congress can never constitutionally abdicate its responsibility for the proper exercise of that power. Yet we have done just that.

As a result, during these past 35 years, the formulation of our foreign trade policy and the exercise of the power to implement that policy have been gradually reduced to mere tools to be fashioned and used by the executive branch in the exercise of its authority and responsibility in the handling of foreign relations. This is not what the Constitution calls for. This is not the separation of powers contemplated by our forefathers.

Congress was given the power over foreign trade. The executive was given the power over foreign relations. To submerge the former in the latter is to destroy the separate identities of foreign trade and foreign relations that inhere in the Constitution. Likewise, it is to ignore the potential, subtle, but significant differences between the two.

During the past 35 years, our foreign trade policy has been primarily tailored to fit the seeming needs of foreign diplomacy. Economic considerations have been relegated to the background. The time has now come when that policy should be redesigned and so revitalized as to gear it to the economic needs and realities of our Nation. And the time has now come when the Congress of the United States must reassert its authority and see to it that this is accomplished.

Mr. President, this import situation presents a clear and present danger to our Nation. Everyone concerned—the public, industry, labor, agriculture, and government—must set aside selfish and partisan interests. They must face up to

this menace with a common, determined front. Above all, Congress must take the lead. For it is in Congress, and in Congress alone, that the constitutional power and responsibility lie. We, the Congress, must act and act now.

I suggest to my colleagues that there is no time to be wasted. I suggest that a thorough investigation of this whole import situation be initiated at once.

Mr. President, I should also like to read from a section of the Division Digest of Consumer Electronics which indicates just what has happened over the years.

It reads:

1970—Year of attrition and transition. Decade of the '60s marked tremendous changes in consumer electronics, paced by growth of color TV and internationalization of the industry. It ended on downbeat note, due largely to economic trends beyond industry's control. Since history isn't marked off into neat 10-year cycles, it's probably more coincidence that 1970 appears to emerge as year of transition into new ages of consumer electronics.

As we see it, new year will be year of pause, rather than true growth, but will lead into age of new products and new alignments as significant as those which occurred in the '60s. It will be difficult year for sales and profits, but year in which consumer electronics begins to regain its technological orientation, its propensity for true innovation.

It's our custom in first issue each year to step slightly out of character and predict what we think the next 12 months hold. We try to make our forecasts as specific as possible, which, of course, increases the risk of being wrong. In this space just one year ago, we climbed out on limb with 70 specific forecasts. Of this number, 53 were borne out by events of 1969, while 9 were completely wrong and 8 were neither completely correct nor wholly erroneous. Eliminating these 8, this comes out to about 85% accuracy, an improvement over our 72.9% rating in Jan. 1968.

Mr. President, I mention this because Consumer Electronics is a reliable publication. I ask unanimous consent that the tabulation which appears on this page be printed at this point in the RECORD.

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

The tabulation, ordered to be printed in the RECORD, is as follows:

STATE OF THE INDUSTRY, SALES TO DEALERS (PRELIMINARY), FROM EIA, FOR WEEK ENDED DECEMBER 19 (50TH WEEK OF 1969)

	December 13 to 19	1968 week	Percent change	December 6 to 12	1969 to date	1968 to date	Percent change
Total TV.....	218,179	264,148	(17.4)	224,633	10,209,107	10,838,550	(5.8)
Color.....	117,000	148,100	(21.0)	121,624	5,368,829	5,512,109	(2.6)
Monochrome.....	101,179	116,048	(12.8)	103,009	4,840,278	5,326,441	(9.1)
Total radio.....	382,442	596,398	(35.9)	435,577	19,441,672	21,425,095	(9.3)
Home, portable.....	194,327	315,479	(38.4)	220,277	9,509,723	11,263,187	(15.6)
AM-only.....	109,797	212,678	(48.4)	117,301	5,755,124	7,107,223	(19.0)
FM and FM-AM.....	84,530	102,801	(17.8)	102,976	3,754,599	4,155,964	(9.7)
Auto.....	188,115	280,919	(33.0)	215,300	9,931,949	10,161,908	(2.3)
Total phono.....	133,827	186,174	(28.1)	143,920	4,905,266	5,150,257	(4.8)
Portable-table.....	95,382	136,216	(30.0)	106,149	3,601,940	3,692,952	(2.5)
Console.....	38,445	49,958	(23.1)	37,771	1,303,326	1,457,305	(10.6)

¹ Includes November final figures.

Mr. FANNIN. Mr. President, I continue to read:

Thus we see domestic-label sales basically holding to same levels as 1969, with no major gains and with dollar volume down slightly from 1969 as a result of changes in

mix and increased buying at lower end of line.

Mr. President, I ask unanimous consent to have the tabulation that is indicated here as volume 10, No. 1, on page 9 of this Digest, which indicates just

what is happening in this particular market, be printed at this point in the RECORD.

There being no objection, the tabulation, ordered to be printed in the RECORD, is as follows:

Product	Total market		Total imports	
	1970	1969	1970	1969
Total TV.....	12,850,000	12,500,000	5,500,000	4,200,000
Color.....	6,100,000	6,000,000	1,500,000	900,000
Monochrome.....	6,750,000	6,500,000	4,000,000	3,300,000
Home radio.....	45,700,000	39,200,000	42,000,000	35,000,000
Total tape instruments.....	15,600,000	11,900,000	14,500,000	10,800,000
Recorders.....	8,600,000	6,700,000	8,000,000	6,000,000
Players.....	7,000,000	5,200,000	6,500,000	4,800,000

Mr. FANNIN. Mr. President, to give an idea of what is happening in the forecasting of the total TV market in the United States, it is estimated that 12,850,000 sets will be manufactured in 1970. 12.5 million sets were manufactured in 1969. That is an increase of 350,000 sets. However, the total imports will increase, according to the forecast, from 4.2 million to 5.5 million. That is an increase of 1.3 million as against a total increase in the market of 350,000.

That indicates that the American manufacturers will lose to that extent on sets produced in this country.

On home radios, we have just as an alarming situation, with a forecast total market of 45.7 million in 1970, with 42 million of those being produced outside of this country, as compared to 1969 when 39.2 million was the total market and 35 million of those were produced outside of this country.

With respect to total tape instruments, we have an even more alarming situation. The total market in 1969 was 11,900,000, and the total market in 1970 is expected to be 15,600,000.

In 1970, 14,500,000 of those are expected to be produced outside of this country, while in 1969 10,800,000 were produced outside of this country.

With respect to record players, the total market in 1970 is projected at 7 million, with 6,500,000 expected to be manufactured outside America. In 1969 the total market was 5,200,000 and 4,800,000 were manufactured overseas.

The total market for recorders in 1970 will be 8,600,000, as against 6,700,000 last year. The total imports of recorders in 1970 is expected to be 8 million, while it was only 6 million last year.

We can see that this is a very alarming situation. We can also be concerned over the trend that was apparent in 1969 in the first 6 months, the total exports of TV sets were approximately 65,000. Our imports of TV sets from foreign countries, sets made by American producers, were 635,000.

In the first 9 months of 1969, the total imports from Japan alone were approximately 2 million.

Mr. President, although I have referred in my remarks to the consumer electronic equipment industry, I also want Senators to realize this is happening in many other industries, and we can be very concerned as to what will happen in the future.

Many of my colleagues have spoken out about their problems in the shoe

industry. For instance, in 1969 total footwear imports were about 200 million pairs of leather and vinyl shoes. For every 10 million pairs of shoes imported, 3,000 American shoe workers lost their opportunity for work. This industry employs 200,000 of these people. They have a talent calling for hand skills. Many of these older people are from disadvantaged and rural areas. Also, that industry offers jobs to many veterans returning from Vietnam.

At that rate, the president of one of our shoe industry trade organizations indicates that the rate of imports increased from 3.5 percent of U.S. shoe market in 1959 to 37.5 percent in 1969; and, in all likelihood, according to his estimate, it will equal American output for 1971. One can plainly see why workers in the industry are very much concerned.

Letters from the public are not encouraging because, in many instances, they have been willing to accept that this trend is inevitable. I cannot accept that. I have made the recommendation that we have a study and that the study get underway at the earliest opportunity.

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

Mr. FANNIN. I am pleased to yield to the distinguished Senator from Florida.

Mr. GURNEY. Mr. President, I have been listening carefully to the statement made by the distinguished Senator from Arizona. I certainly commend him for bringing this most important aspect of our economy to the attention of the Senate and the country. There is no question but that the case he makes is strong and powerful. It is a situation that should be investigated, and based on the facts shown, some remedial action taken.

There is no question but that the distinguished Senator is correct in his statement that foreign imports of manufactured goods are flooding this country and hurting American labor and our entire American economy, and putting some industries almost out of business.

The Senator mentioned, in large part, the manufacturing industry, because this problem is perhaps directed more toward that industry in Arizona.

I would like to supplement the Senator's case by stating that in agriculture we have a similar problem, and more especially in Florida, my home State. This winter we have had a serious threat to our entire tomato industry from tomatoes imported from Mexico. The irony of this particular problem is that I under-

stand a great many of the Mexican tomato operations are financed by U.S. capital that fled from this country because of the inability to acquire labor to harvest the tomatoes in other sections of the country.

A growing danger that is somewhat imminent at our doorstep affects our citrus industry in Florida, and in Texas and California. There have been enormous plantings of citrus south of the border, particularly in Mexico; and there have also been experiments in citrus growing in Latin American countries. There is no question but that Latin America has the potential eventually of putting the entire citrus industry of the United States out of business, based on the labor differential and the cost of producing citrus here, as opposed to what it might be under a cheaper form of labor in Latin America.

This danger the distinguished Senator called to the attention of the Senate in these cheap imports from foreign countries exists not only in manufacturing but the entire field of agriculture.

I recall just a few years ago when I first came to the Congress, the House of Representatives—that was about 6 years ago—we had to pass a beef quota import bill to protect American cattle producers from being flooded in the United States with cattle and meat imports from foreign countries where their labor market is a good deal cheaper.

So this problem crosses the entire economic spectrum of America. I certainly commend the Senator for bringing this matter to the attention of the Senate and I hope Congress, as well as the executive branch, will move ahead in this matter, compile facts, and find out where we are going so we can protect our labor in the United States and our own great economy from being destroyed by foreign competition.

Mr. FANNIN. Mr. President, I express my appreciation to the distinguished Senator from Florida for his observations. I know he has been vitally interested in this and other problems of imports and that he has been working very actively on these programs. He is knowledgeable, and the information he has given is very valuable.

I want Senators to know that the problem of foreign manufacturing competition has been called to our attention many times before. I have an issue of U.S. News & World Report of February 25, 1967. An article in that issue shows the barriers against U.S. trade, stating:

It's getting harder and harder for U.S. companies to sell things abroad. Price cuts by British, other competitors are biting in. New taxes are being levied on imports in Europe. Nontariff barriers are going up worldwide. Rougher competition for international sales looks certain everywhere.

Mr. President, we do have a serious problem that is growing each year. This problem has picked up more in the past 12 to 18 months than at any other time. The article further states:

Take prices. Countries that cut the value of their currencies in last month's wave of

devaluations are beginning to offer lower price tags.

That was back in 1967. Our problems are even more severe now. We can go into almost any type activity, whether it is heavy equipment, requiring heavy freight bills, or light electronic equipment that does not involve much freight, but we must realize that our tariff situation is serious, especially when we recognize that a car can be bought from Japan, or other foreign countries that compete with us, on a 3-percent tariff, whereas tariffs we must pay to ship a car into their countries is 17 percent at the minimum.

This came about from the General Agreement on Trade and Tariffs, in the Kennedy round.

It is vital to all of us that we take a look at what is happening and review what can be done to correct this inequity. We certainly cannot continue with the imbalance of trade growing each year.

There are many other factors involved in this situation. I will be covering them in future statements, but I feel that now we have an immediate problem that is very serious. This problem could vitally affect the jobs of our people and the opportunities for our companies to go forward here at home. As statistics indicate, we are not going forward. We are really receding in our total manufacturing activity in the United States, as well as in world markets. This serious situation cannot continue on without immediate attention and without a hard look at just what can be done to correct it.

We have been negligent in our work in this field that we now find ourselves in an emergency position.

Mr. HANSEN. Mr. President, I would like to commend the distinguished senior Senator from Arizona for having brought to the attention of Members of the Senate a very important matter. I think he has put his finger on one of the most difficult questions that faces the Congress of the United States.

Obviously, we are all interested in the fight that is being made against inflation. Some have proposed, as the distinguished Senator from Arizona so well knows, that the way to beat it is to permit the importation of cheaply produced foreign products.

Next to the distinguished Senator's State of Arizona is the Republic of Mexico. I know the Senator has called attention from time to time to the fact that labor in our sister country of Mexico receives only a fraction of the wages paid by American industry.

What is the significance of this statement? The significance, Mr. President, is that we can lower the cost of many of the products that we use in this country, but if we do so, we do it at the risk of undermining the very strength of our own domestic economy. Our distinguished colleagues from New England from time to time have spoken out, expressing their concern over an increasing flow of imports, particularly shoes and textiles, into America from foreign

countries, and they have called attention to the fact that as we import more shoes and more textiles into this country, we put American workers out of jobs.

I have agreed, as has the distinguished Senator from Arizona, with our friends from New England that the loss of American jobs is a real threat, one that should not be tolerated. It would be in the best interests of the United States to propose and to enforce meaningful quotas on the flow of goods that can come from foreign countries into this great American market.

Those in New England, while they cry out loudly for the support of all of the Members of Congress to protect their domestic industries, do not see the wisdom, or at least thus far have apparently failed to see the wisdom, in the broad application of their concern. I speak because my State of Wyoming is very keenly interested in the possible changes that could result from the recommendations that have been made by the task force to study the mandatory oil import program. The State of Wyoming receives approximately 40 percent of all of the dollars that are spent for education from kindergarten right on up through the advanced degree program at the University of Wyoming, from the petroleum industry.

As a consequence, I hope that what has been said by my distinguished colleague from Arizona will be noted and studied carefully by the Members of this body, because it does indeed pose a very real threat, not only to national security, insofar as oil is concerned, but as well to our industry, to American jobs, to tax revenues, and to the dollars that flow into our economy from the oil industry.

I recently found some figures that make comparisons between labor costs in this country and in other countries, and I think it would be well worth the time required for Members of this body to ponder the significance of these comparisons.

Compared with other countries, the cost of an average hour of labor in Japan is the lowest among the principal automobile manufacturing countries, as the following figures indicate. While Toyota's estimated labor cost of \$1.40 per hour is about one-quarter the average labor cost in the United States, it is not much below the average cost in England. For instance, in the automobile industry in the United States our labor cost is \$5.31 an hour. Let that cost equal 100 percent. The labor cost in Germany is \$2.20 per hour, and represents only 41.4 percent of the cost of an hour's labor in America. The cost in Mexico is \$2.40 per hour, and is only 38.4 percent of the cost of the labor involved in producing a car in the United States. Australia has a cost of \$1.92 an hour, which is 36.2 percent of the cost in the United States.

The cost in the United Kingdom, \$1.57 per hour, is only 29.6 percent of the U.S. cost. Argentina's cost, \$1.19 an hour, is 22.4 percent of the cost in the United States. The cost in Italy, \$1.99 an hour, represents 37.5 percent of the cost of

the same type of work in the United States. And in Japan, as I said at the outset, \$1.40 per hour represents only 26.4 percent of the cost that we have in this country.

Mr. President, I think it should be apparent to everyone that this is the greatest market in the world. It is the greatest market in the world because people living in the United States have the highest per capita income to be found anywhere in the world. We are going to compete, and we have competed very successfully with other countries, and I am certain that American industry can continue to compete, provided there is some protection—so we can continue to pay 3, 4, or 5 times as much per hour to our workmen as foreign countries pay.

It is this that concerns me. I am not saying and I have not said in the past that we ought to try to build a wall around America and deny any foreign country access to our markets. I do not say that. What I do say is that I think that American manufacturing, American industry, the American employer, is entitled to reasonable protection for this market that he has helped make—the great American market that it is.

By that I mean that we should offer, I believe, if we are to give the proper encouragement to the high wages we pay in America, some reasonable protection to the people who pay those wages, by seeing that the imports that come into the United States shall not exceed a certain fixed percentage of our total amount of consumption in this country. I think it makes sense, Mr. President, to say to the foreign car manufacturer, first of all, "We will permit a reasonable importation of your products into the United States if you will accord us the same privilege into your country."

Many European nations have very adroitly circumvented the fact that we are the lowest major tariff nation in the world today. They say, "We do not charge tariffs that are out of line with what you charge in America." That may be technically true, but it should not go unnoticed that what they do is impress hidden taxes in other ways, so as effectively to preclude or to exclude the sale abroad of American-made products.

On many European roads, there is a road tax that applies if you are driving an American-made car; and while they can say technically that they do not have tariffs which are out of line with our American tariffs, the imposition of such things as a road tax very effectively keeps American-made cars off the highways of many European countries.

Mr. President, I say also that I am delighted that we are able to live as well as we are living in this country. I hope that the true income of American employees can go higher and higher, so that we may all enjoy a greater measure of the fruits of this good country of ours. But if we are to do that, I think we have to have the protection that quotas would give us, whether they are applied to shoes, to textiles, to oil, to automobiles, or to whatever they may be applied.

Let us demonstrate our willingness to

be good neighbors with other countries. Let us demonstrate that in like measure with their willingness to permit the importation of our products into their country. But let us not be so foolhardy as to think that we can compete with the great differences that exist between American wages on the one hand and foreign wages on the other by saying, "Bring over all you want. We'll take every bit of it. There will not be quotas or anything else applied." Let us impose quotas so as to protect the American jobholders, so as to protect the high wages in this country today, so as to protect our American economy, that we can continue to do for all the people in this country those things that are possible only if we are able to maintain the high standard of living we have.

Only last week, President Nixon released a task force study on the oil import question but wisely deferred any action that would further open the gates to a flood of foreign oil that could soon not only wreck our domestic oil and gas industry but would also leave us at the mercy of the Middle East and North African countries that control a large part of the known world oil reserves.

Only last week, my distinguished colleague from New Hampshire, one of the States that could find itself cut off from such undependable oil sources, rose here on the Senate floor to tell the story of shoe plant closings in his State and reductions in the shoe industry work force. My good friend, Senator McINTYRE, said, and I quote:

I urge my colleagues to note these facts with great seriousness. One of America's great industries is being sorely hurt. There are several proposals to cut back this expanding river of imports. If we do not move soon the dam will break and the shoe industry may well be drowned.

And, during the same week, my distinguished colleague from Wisconsin, Senator NELSON, was fighting for his State against mounting cheese imports which he says are coming into this country over and above agreed quotas and hurting the dairy industry in his State.

Mr. President, we produce some fine cheese in Wyoming, and I join the distinguished Senators from Wisconsin and, also, my good friends from New Hampshire in their efforts to keep jobs from being exported to those countries where labor is paid only a fraction of what our U.S. workers are paid for producing similar products.

Obviously, the American consumer cannot expect American industry—oil, shoes, automobiles, dairy, steel, textiles, electronics—to do the impossible which is to sell to him at prices that would be profitable only if industry paid wages comparable to the foreign levels I have just quoted.

American consumers have made such wages illegal and impossible through their elected representatives and the minimum-wage laws, obligatory collective bargaining, and other laws that have been enacted during the years.

Mr. President, I am a firm believer in reciprocal trade but a \$7 billion balance-

of-payments deficit last year and a continuing flood of cheaply produced foreign imports that are disrupting U.S. industry and displacing U.S. workers is not what I would call reciprocal. As we pursue this liberal foreign trade policy, our negotiators would do well to consider some of the facts of life, or at least, the facts of hard-nosed bargaining with some traders who are expert at this sort of thing.

Before bargaining off what little protective tariffs or quotas we have left, let them study some statistics and background of comparative U.S. wage levels and the U.S. standard of living as compared with the countries from which these imports are coming.

The U.S. consumer and those who represent them in Congress must learn to act responsibly and to forgo their inclination to eat their cake and still have it as far as imports are concerned.

And those who advocate control of domestic prices by a flood of cheaply produced competitive imports to fight inflation may well have to suffer the consequences of the massive unemployment that will surely result.

I do not believe President Nixon wants to fight inflation that way and I am happy to note that he refused to open the floodgates on cheap foreign oil and I hope he will direct whatever measures are needed to restore balance to imports that are injuring other domestic industries.

I thank the Senator from Arizona for the very worthwhile address he has delivered this morning.

Mr. FANNIN. Mr. President, I commend the distinguished Senator from Wyoming for his very erudite explanation of what is happening here and the great threat we have so far as the oil industry is concerned. He is one of the most knowledgeable men in the Senate on this subject. Certainly, in his home State he has a tremendous problem. I know that what he is doing to assure that we have at all times sufficient petroleum products in this country, is a great contribution to our Nation. I thank him for what he has said.

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

Mr. FANNIN. I yield.

Mr. BAKER. I wish, also, to commend the distinguished Senator from Arizona for an incisive, an intelligent, and a well-reasoned presentation of a delicate and complex subject. This business of export-import balances, controls, and regulation is one in which emotions run high because, as is frequently the case in other fields, the Appalachian free trader or protectionists grow up frequently without any basis in fact. In fact, the circumstances that lead to an intelligent judgment on a complex matter require far, far more analysis than some simple labeling of a person's posture or position in this field.

I am especially grateful, therefore, that the Senator has gone into some detail in trying to analyze the dilemma in which the United States finds itself today.

Let me say that I suppose I am a free trader. I hope to be but, by the same

token, I have a great basic resistance to the constant exportation of American jobs. I recall that on many occasions in this Chamber and off the floor of the Senate our late, distinguished colleague from Illinois, Senator Dirksen, used to use that term and state that the greatest consequence of today's trades policy was to export the jobs of Americans.

Let me point out, too, that at this particular time in history we are undergoing evolutionary changes that may in fact someday lead us to the place where we have a fairly uniform set of trade barriers or nonbarriers, so that some element of free trading will be not only desirable, as it is patently desirable now, but also obtainable and practical.

It strikes me as being foolhardy to treat this problem on the basis of protectionism or on the basis of free trade without looking at the fact that now, today, by reason of Government subsidies, by reason of currency restrictions, by reason of credit flow restrictions, by reason of wage-hour requirements in different parts of the world, by reason of restrictions on capital investment or the transfer of capital assets, and by reason of varying regulations relating to merger and relating to the consolidation of functions here and abroad in industrial activity, it is impossible to look at a particular tariff or quota or restriction and say this is or is not in furtherance of free trade, real or mythical, and this is or is not in the best interests of everyone concerned.

There really is no such thing as theoretical academic free trade in the world today.

I was in Japan recently, and I must say that that country is one of the great industrial nations of the world, with a magnificent recovery after the devastation of World War II. Without being unfair or supercritical of our good ally, Japan professes to be a great exporting and free trading nation; but I found in Japan, in speaking to business leaders and government officials, some of the most rigid restrictions on capital investment by non-Japanese that I have ever seen. I saw greater restrictions on currency flow than I knew existed in the world. I found, in a word, that quotas and tariffs are only a very minute part of the total problem of the obstruction of free trade between the nations of the world.

The effect frequently—and I do not make this accusation as it relates to Japan—is to have a system of low trade tariffs or even quotas, but to have currency and credit restrictions that absolutely make it impossible to trade in certain commodities or certain fields of endeavor with a certain country. That is not free trade.

Therefore, I commend the distinguished Senator from Arizona for pointing out the complexities of this problem. I wish to point out that we had better get about the business of trying to do something about it, because the greatest single export of the United States is not yet American jobs; but if we are not careful, it soon may be.

CROWDING OF POPULATION INTO AREAS

Mr. MANSFIELD. Mr. President, I am becoming quite concerned about the distribution of our population as between the rural areas and the urban areas; the latter now contains approximately 75 percent of our total population. With that unbalanced shift, with the extreme congestion it has produced we find an increase in crime and all of the many problems that face our large metropolitan areas. We find an increase in drugs on the part of the young. We find hunger, poverty and the full spectrum of sociological, and other difficulties that arise because of the shift in population. That shift has created a severe population imbalance.

I have thought about this problem at length and I have reviewed recent studies of the matter. What I would like to see is a shift away from the urban areas back to the rural areas, and with it a decentralization of industry, that will first help to solve at least in part the problem of population, which is most important and which will become increasingly significant in the decades ahead. The population of our Nation alone will reach 300 million by the year 2000. It is then estimated that about 80 percent of our people will live in urban areas unless the trend is reversed.

It is a fact that 30 percent of our population occupies 98 percent of our land. It is in this enormous imbalance, in my judgment, that is found—as I indicated—the roots of the misery and squalor that have come to characterize our larger cities. Turning the human tide back from the megalopolis to the countryside must therefore be a task assigned the highest priority.

Of course, at the national level there have been study groups and hearings galore on this subject. In 1967, President Johnson's National Advisory Commission on Rural Poverty reported on "The People Left Behind." There have been many hearings here in the Congress on population problems, including that of heavy migration to the cities from rural areas. The U.S. Chamber of Commerce had a "task force" which told us all about "Rural Poverty and Regional Progress in an Urban Society." The Advisory Commission on Intergovernmental Relations has issued a report on "Urban and Rural America: Policies for Future Growth." There is even a White House Task Force to stimulate rural development. I must say as well that the Senate and just recently the House have adopted S. 2701, calling for a Commission on Population Growth and the American Future. That measure is now at the desk and will be called up for final clearance tomorrow. I am happy to say.

But while the commissions advise, the hearings hear, the savants ponder, and the task forces task, the people of this country need some action; they need a bold new program carefully conceived and designed to meet the problems of population which in the final analysis encompass all of the problems of people—the environment, employment, education, housing, and all the rest.

Any such program must include a wide measure of consideration for urban/rural imbalance of today. One approach has already been proposed in S. 15, the rural job development bill submitted by the senior Senator from Kansas (Mr. PEARSON). Under this proposal rural industrial and commercial activities would be given Federal incentives in order to create jobs in the countryside which are badly needed and needed now. I commend the able Senator from Kansas for his long-standing battle in behalf of this objective.

Those of us in public life who have always prized the small town and the countryside as a potent source of personal and national strength have found recently some further signs of encouragement for the views we hold. Not long ago, Mr. James Sundquist, a former Deputy Under Secretary of Agriculture and now a senior fellow of the Brookings Institution contributed immensely to the understanding of the rural/urban balance with his article "It's High Time for Americans To Disperse." This provocative dissertation first appeared in the winter issue of the quarterly, the Public Interest, and was reprinted by the Washington Post on Sunday, February 8.

To say the least it is a penetrating analysis. It has occasioned favorable comment in both Houses of Congress. It demonstrates clearly the cause-and-effect phenomenon that exists between our deep and growing urban crisis and the great losses suffered by our rural areas.

There is nothing essentially new about this problem of a rural/urban imbalance. Its roots go back a good many years as expressed in the lyrics of the old song, "How Ya Gonna Keep Them Down on the Farm?" The answer to that question asked about the Doughboys of some 50 years ago lies in our ability now to make attractive those less populated rural areas that, for whatever reason up to now, have only encouraged migration.

In the past, I regret to say, the matter too often was addressed to little or no avail. It is about time that we focus at length and with a deep commitment on the need for rural improvement and on a national policy for balanced living. Virtually every aspect of the urban crisis—poverty and welfare, employment and crime, housing and health—can be linked directly to the migration from rural America. To state it simply: Too many people live within too little space. That is the problem and it is an old story. Overcrowded cities have bred everything from riots to relief, from pollution to probation, from transit breakdowns to training the unemployed. The crowded and congested living areas are simply becoming uninhabitable.

The case for the town and the small city, long suppressed by the clangorous importunings of megalopolis, was persuasively stated in two important studies. The National Committee on Urban Growth Policy issued its report last May. More recently, intensive research was conducted by the Center for the Study of Local Government at St. John's Uni-

versity, near St. Cloud, Minn.—perhaps the only research center in the country that devotes its attention solely to cities with populations between 10,000 and 50,000.

In sum those studies call for solutions; solutions that include rural industrialization, the relocation of installations of the Federal and State governments, the development of outdoor recreational facilities, a revitalized agriculture, improved rural education, and preferred Federal loans—loans for rural water supplies, waste disposal systems, for electric power and for overall economic development.

It has been said that no city can claim that the situation tomorrow will be any better than it is today. If that is the case then the ultimate solution may lie not in the investment made in the city itself but rather in the application of our resources outside the big cities—in the towns and smaller cities and in the countryside. It is indeed time for Americans to disperse. It is high time that we make it possible.

Mr. President, I ask unanimous consent that an article by Mr. Sundquist be printed at the conclusion of my remarks. The CBS News has been examining the environmental crisis, and I also ask unanimous consent that a number of commentaries by Mr. Severeid, Mr. Cronkite, and others who have participated and will participate in this series of television broadcasts having to do with the environment and the dangers which confront us—which, of course, includes population control—be included at this point in the Record.

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

IT'S HIGH TIME FOR AMERICANS TO DISPERSE
(By James L. Sundquist)

By the end of this century, 100 million people will be added to the population of the United States. That is as many people as now live in Britain and France combined. Where shall they live?

If present trends continue—if they are allowed, that is, to continue—most of the 300 million Americans of the year 2000 will be concentrated on a very small proportion of the Nation's land area. Projections of the Urban Land Institute place 60 per cent of the country's population—or 187 million persons—in just four huge urban agglomerations.

One continuous strip of cities, containing 68 million people, will extend 500 miles down the Atlantic Seaboard from north of Boston to south of Washington. Another, with 61 million, will run from Utica, N.Y. along the base of the Great Lakes as far as Green Bay, Wis. Some 44 million persons will live on a Pacific strip between the San Francisco Bay area and the Mexican border. A fourth agglomeration, with 14 million, will extend along the Florida East Coast from Jacksonville to Miami and across the peninsula to Tampa and St. Petersburg.

Most of the remaining 40 percent of Americans will live in urban concentrations, too—and big ones. In this decade, the large concentrations have been growing fastest; metropolitan areas over 150,000 grew faster than the national average of 9.8 per cent between 1960 and 1965 while the smaller areas grew more slowly.

These trends, continued for the next three decades, would place 77 percent of the com-

ing 300 million Americans on 11 per cent of the land (excluding Alaska and Hawaii). Only 12 per cent of the population would be outside urban areas of 100,000 or more population. Is this the way we want to live?

Two questions are presented. The first pertains to regional balance. Is it desirable that population be massed in a few enormous "megalopolises" along the seacoasts and lakeshores? The second relates to rural-urban balance (or, more accurately, the balance between metropolitan and nonmetropolitan areas). Is it in the best interest of the country, and its people, to continue indefinitely the depopulation of rural and small-town America and the building of ever bigger metropolitan complexes, in whatever region?

FORCED MIGRATION

In short, the 300 million can be highly concentrated in a few "megalopolises," or they can be distributed more evenly as among regions and dispersed in a more nearly balanced way among large metropolitan areas, middle-sized cities and thriving small towns and villages. Which do we want?

How each family lives is profoundly influenced, even controlled, by the size of the population cluster in which it is embedded. The degree to which population is massed determines the amenity and congeniality of the whole environment in which adults and children live and grow and work. It affects their personal efficiency, their sense of community, their feelings about the relationship between man and nature, their individual and collective outlooks on the world.

The impact of size is most emphatic on the lives of the ghetto dwellers of the great cities, of course, but no one in a megalopolis is immune. The resident of Scarsdale or Winnetka is not wholly spared the stresses of big city life; the larger the metropolitan area, the greater the strains and irritations of commuting and the more inevitable that the environmental pollution that arises from population concentration will affect the most idyllic suburbs, too.

In any case, the desirability of population concentration must be measured by its consequences for the majority of families who live at near-average or below-average levels, not upon the few who can insulate themselves in political and social enclaves.

So the question is, what kind of environment do we want to build? The nation, through its government, has established policies on matters of far less crucial import, yet the extent to which the country's population will be concentrated remains essentially *laissez-faire*.

That would be all right, perhaps, if by *laissez-faire* one meant free choice by the individuals and the families that make up the population. But it is far from that. The movement of people from smaller to larger places it, to a large extent though no one knows the exact proportions, involuntary, forced migration.

Young people going freely to the cities in search of adventure and opportunity make up part of the migrant flow, but only part; among the rest are millions of uprooted, displaced families who have little desire, and less preparation, for life in large cities and whose destination is often inevitably the city slums. These displaced families are simply forced into the migration stream by economic forces they cannot control.

The spatial distribution of population is determined, of course, by the distribution of jobs. With the exception of the limited numbers of the self-employed and the retired, people are not in reality free to live just anywhere. The vast majority are employees who must live where there are jobs, and the location of jobs is not their choice. The concentration of the country's popula-

tion is the result of employer-created job patterns that the people have had to follow.

For the most part, employers have not been free to create jobs just anywhere, either. They have been bound by considerations of economic efficiency—the location of raw materials and markets, the transportation cost differentials of alternative locations, etc. As a result, the basic pattern of population distribution has been designed by the play of economic forces, not by men acting rationally as environmental architects; events have been in the saddle once again.

Even in the absence of quantified evidence, it seems reasonably clear that our largest urban concentrations have grown well beyond the point at which diseconomies of scale begin to show. The costs of moving people and things within large metropolitan areas are demonstrably greater than the costs of moving them in smaller population centers. Commuting distances are obviously longer, the time loss greater, the costs higher. The flight of industry from central cities to the suburbs is a reflection, in part, of the cost of transportation to and within congested areas.

The cost of urban freeway construction varies directly with the population density of the areas affected, and subway systems are an enormous expense that only the larger metropolitan areas require. Such municipal functions as water supply and sewage and solid waste disposal are probably also subject to diseconomies of scale, for the simple reason that the water and the waste must be carried over longer distances. San Francisco, for example had contemplated dispatching a 70-car train daily to carry its solid waste over 300 miles into the mountains on the Nevada-California border.

COSTLY CRUELITIES

The diseconomies are ultimately measurable, at least in theory, in dollars and cents. Other disadvantages of scale are less measurable but no less real. Air pollution, for example, is a function of the dense concentration of automobiles. Similarly, water pollution is more amenable to control in areas where population is dispersed; there, given the will, the way is at least available.

One other factor that must be considered in any calculation of costs and benefits of urbanization is the social and economic cost of migration itself. To decide which new plant location is really most efficient, it is not enough to measure only the building and operating costs of the plant, although that has been the sole criterion of our *laissez-faire* philosophy.

There are enormous costs, as well as appalling cruelties, in the forced displacement and migration of populations, whether it be Negroes from the South, mountaineers from Appalachia or small businessmen from the declining regions of the Great Plains and the Midwest. (In the 1950s, more than half of America's counties suffered a net loss of population.)

Families lose their homes and savings and equities and property values along with their most deeply cherished associations; communities lose their tax base for public services; community institutions wither. Some of the migrants are too ill-prepared, too sick or too poor to adjust to city life successfully; many of them wind up on welfare, and they burden every kind of institution.

Yet these costs and losses are not borne by the industry locating the plant, but by people and communities, thereby entering no one's cost-benefit equation, no one's computations of efficiency. If they did so enter, then calculations of simple efficiency would no doubt show, that as a general rule, it is far more economical from the standpoint of the whole society to create new economic

opportunities where the people are rather than allow existing communities to die while building other whole communities from the ground up in the name of "economic efficiency."

Moving from the physical to the social environment, hard data on disadvantages of scale are even more difficult to come by. Yet we know that as population in general is concentrated, so is poverty (large ghettos exist only in large urban concentrations) and crime, drug addiction, family breakdown and every other form of social pathology. It may be specious to argue that rural poverty is better than urban poverty when both are bad enough, yet the fact remains that the social evils associated with poverty tend to be mutually reinforcing when the poor are herded together in concentrated masses—as studies of public housing populations, for example, have clearly shown.

Racial tension and rioting are not limited to big cities, to be sure, but in their most terrifying aspects they seem to be. Perhaps most important of all, the problem of unemployment and underemployment of the urban poor appears all but insoluble in the largest urban complexes because transportation systems just cannot economically link the inner cities where the poor live with the scattered suburban sites where the new jobs are being created. In smaller places, by contrast, people can even walk to work.

For all these reasons, it is not hard to accept as a hypothesis, at least, that our largest metropolitan agglomerations are less governable, less livable and economically less sound than smaller urban centers. Moreover, what little evidence is available suggests that people do not like to live in unlivable places; they are there, in substantial proportion, against their will. A Gallup poll in 1966 showed that 56 per cent of Americans would choose a rural life, if they were free to choose, only 18 per cent a city and 25 per cent a suburb.

FRUSTRATED FREEMAN

Over the last decade, only one leading figure in public life has made it his mission to sound the alarm on the question of population distribution policy. That was the recent Secretary of Agriculture, Orville L. Freeman. For the whole of his eight years in office, he led a personal crusade for what he initially called "rural areas development" and later came to call "rural-urban balance."

Before a House subcommittee in 1967, he said, "I say it is folly to stack up three-quarters of our people in the suffocating steel and concrete storage bins of the city while a figurative handful of our fellow citizens rattle tapped resources and empty dreams." And then he got carried away: "The whiplash of economic necessity which today relentlessly drives desperate people into our huge cities must be lifted from the bleeding back of rural America."

Freeman's metaphors could be excused; no one listened to all his years of sober pleas and reasoned argument. True, President Johnson gave him moral support and himself made a speech or two on rural development and sent Congress some minor measures, but the subject remained low on the President's priority list.

As for the congressional committees on agriculture, which might have been expected to take some leadership, Freeman could not even get them to set up active subcommittees to consider rural development.

The nation's intellectual community, insofar as it was aware of the Freeman thesis, treated it with a disdain that blended into outright hostility. A composite view of the urban intelligentsia toward rural America can be portrayed, with a touch of caricature, something like this:

Culturally, the cities have a monopoly, and have had since the Age of Pericles. Urban means urbane; rural means rustic. The theater, the concert hall, the museum are exclusively urban institutions; the countryside cannot produce the higher culture, and those who insist on living there are, by definition, both culturally unrefined and, what is worse, content to remain so.

Economically, rural America is destined for decay; the economic forces that built the cities are too powerful to be reversed, even if it were desirable to do so. Freeman's "back to the farm" movement (which, for the record, is not what it was) is romantic nonsense that flies in the face of every economic reality.

Sociologically, rural America is a backwater populated by misshapen characters out of Faulkner, given to choosing as their leaders men like George Wallace and Lester Maddox and to hunting down civil rights workers and interfering them on the banks of the Tallahoga River. Politically, it is time that rural America got its comeuppance; the farmers have been exploiting the cities far too long through outrageous programs that pay them enormous subsidies to cut production while the urban poor—and the rural poor as well—go hungry.

Let the land-grant colleges—the "cow colleges," that is—worry about the Podunks and the hicks and hayseeds who live there; we are an urban nation now.

INTELLECTUALS RECONSIDERING

This picture of the rural areas is not, unfortunately, wholly unrelated to reality. The fact is that the rural areas of the country are disadvantaged in many ways: they are culturally isolated (although their isolation has been drastically reduced by television and good roads); they have declined economically; their governmental and social institutions are often primitive and backward; racial exploitation is rife.

But the cities are not all that superior. There is truth, too, in Freeman's counter-portrait of big cities as places of "congestion and confusion, crime and chaos, polluted air and dirty water, overcrowded schools and jobless ghettos, racial unrest . . . and riots in the streets."

But there are signs now that the intellectual world may at last be rediscovering rural and small town America and looking with fresh eyes upon the problem of rural-urban balance. Like so many other trends of current history, this one was set in motion in August, 1965—in Watts.

The analysts of that explosion, and those which followed, suddenly discovered that the problems they called urban had rural roots. "We're being overwhelmed!" cried the urbanists. "Stop the migration. Get these people off our backs!"

So the rural and the urban interest may have converged, finally, and it is out of such convergence that effective political coalitions are born and problems attain their place on the national agenda. The prospects for such a coalition are expressed most sharply in, of all places, the 1968 Republican platform.

"Success with urban problems requires acceleration of rural development in order to stem the flow of people from the countryside to the city," reads the GOP's plank. The language is not without irony for the party of small town America and the party that enacted the Homestead Act. The subject is treated under the heading "Crisis in the Cities"; rural development should be accelerated because the problems of the big cities, where the Democrats live, must be solved.

The leadership for a rural development coalition, also ironically, will have to come from those very cities. Groups with names

like the Urban Coalition, the Urban Institute and the Urban League will have to assume the burden of worrying about rural America because there is no rural coalition, no rural institute, no rural league.

Nobody has ever organized to speak for rural and small town people in the nation's councils as the United States Conference of Mayors, say, and the Urban Coalition speak for city people. Farm groups exist, to be sure, but their interest is the economic interest of farmers as producers, and most rural Americans—whatever the definition of the word "rural"—are not farmers but small town and small city dwellers. And they are not organized at all.

When rural America is saved, it is clear, it will be for the wrong reasons and under the wrong leadership. But that is better than not being saved at all.

We can begin by defining one objective—to bring to a halt, as nearly as possible, all involuntary migration. The purpose of governmental policy, then, would be to permit people to live and work where they want to live and work; if they prefer to move to the big city, well and good, but if they want to remain where they are, the objective should be to bring the jobs to them.

The proposal will be confronted at once by the objection that some rural areas are too remote, too backward to be salvageable in any circumstances—that no matter how much they are subsidized, they are beyond the reach of economic opportunity. I hide behind the qualifying phrase; forced migration should be brought "as nearly as possible" to a halt, and where a rural community lies beyond the possibility of redevelopment (the Appalachian "head of the hollow" communities come to mind) then it is by definition impossible to help.

However, the number of people living in such communities is far smaller than is usually believed, if one understands that the jobs to be provided need only be near, not at, the community concerned. Commutation is a fact of life in this automobile age in rural areas as well as on Long Island, and rural people commonly travel daily to jobs within a radius of 25 to 50 miles. Circles with 25-mile radii drawn around small cities that have a proven economic potential—proven by the fact that they are growing now—cover the vast majority of the country's rural population east of the high plains, and if the circles are extended to 50-mile radii, they blanket almost the whole country but for a few sparsely settled sections of the western mountains and the plains.

A population distribution policy, then, would seek to encourage an accelerated rate of growth in the smaller natural economic centers of the country's less densely populated regions. To effectuate such a policy, the present approaches would have to be extended in both breadth and depth.

First, they would need to be expanded beyond Appalachia and the other presently recognized redevelopment areas to cover all areas that are sources of out-migration. Second, they would need to be greatly improved in potency so that they have a decisive impact upon the migration stream.

Present federal programs are limited to public investment—roads, hospitals, vocational training schools and so on—to strengthen the "infrastructure" of the non-metropolitan areas, and loans and loan guarantees to encourage private investment. To these would have to be added the policy instrument of tax incentives that has proved so effective in stimulating and channeling investment both for war production and for peacetime economic growth. If an extra investment tax credit were available for defined types of new industry located in the places where the national population distri-

bution policy called for it to be located, then jobs would be created where the people are rather than in places to which they have to migrate.

WRITING THE LANGUAGE

The rub will come, of course, when Congress begins to write the language defining exactly the places eligible for benefits. Growth centers that serve areas of out-migration would have to be included among the beneficiaries even though the centers themselves were areas of in-migration. But only up to a certain point. A cutoff population figure would have to be established at the point where a growth center is considered to have grown large enough, or at least to be able to attain its further growth under its own power.

But given the old-fashioned booster psychology that still conditions the thinking of the leadership of even the largest cities, Congress will find it difficult to designate any area, even the New York City area, as one that is destined—if national policy can bring it about—to stop growing. To most community influentials, bigger and bigger still mean greater and greater and richer and richer. A population distribution policy may therefore ultimately have to await a major shift in the national psychology.

CBS NEWS EXAMINES "THE ENVIRONMENT CRUSADE" FEBRUARY 24; TAKES A LOOK AT AMERICA'S GROWING AWARENESS OF DANGERS AND WHAT THE ADMINISTRATION IS DOING TO CURE POLLUTION

"The Environment Crusade," a look at the growing awareness among America's youth of the dangers of environmental pollution and an examination of what the Nixon Administration is doing to combat pollution, will be broadcast as a CBS News Special Report Tuesday, Feb. 24 (10:00-10:30 PM, EST in some areas; 10:30-11:00 PM, EST in others) in color on the CBS Television Network.

CBS News Correspondent Walter Cronkite will anchor the broadcast. Correspondents Roger Mudd and David Culhane will be the reporters. Ernest Leiser is executive producer of "The Environment Crusade."

"There is no question but what young people today have suddenly become aware of pollution of this planet which they will inherit," says Leiser. "And President Nixon also has recently indicated his concern. That leaves two questions which the broadcast will attempt to answer: one, is this just another passing fad among young people, to be dropped next season for another 'cause'? And two, is there a discrepancy between what the Administration says about pollution and what it does?"

The broadcast will report student preparations for April 22, designated by them as "Earth Day," a day of protest and "teach-ins" against pollution. Ecologists Barry Commoner and Paul Ehrlich, author of "The Population Bomb," will comment on the future if pollution is not curbed.

Russell Train, newly appointed chairman of the President's Council on Environmental Quality, and Senators Gaylord Nelson (D., Wis.) and Edmund Muskie (D., Me.) are among those who will also be interviewed on the broadcast.

Bernard Birnbaum and Philip Scheffler are producers of "The Environment Crusade."

CBS EVENING NEWS WITH WALTER CRONKITE

CRONKITE. The symbol you see behind me—the world in our hand—will become increasingly familiar on this program in coming months. For beginning tonight, and perhaps continuing as long as we have the air to breathe, we are going to report regularly

here the greatest battle man has ever waged, a true battle for survival, the battle—to put it crudely, but accurately—to keep our heads above the rising tide of our own garbage.

The stakes in this battle are far greater than any other we have ever fought. To lose this one is to lose the planet earth, and as of this moment, we are losing—decisively.

Like all battles in progress, the action is confusing. Our hope with this series is to clear up some of the confusion. Certainly we have a right to our confusion; the scientists themselves disagree on the schedule of disaster. Each specialist counts the time to his own special catastrophe. But we found not one scientist who disagreed that some disaster portends, and generalist Lamont Cole, one of the earliest voices crying in this wilderness, drew up for producer Ron Bonn a whole range of ugly possibilities.

COLE. I would be very surprised if there is not a worldwide food crisis within the next ten to 15 years. But the sad thing here is that we could make the earth uninhabitable and not realize it for perhaps 25 or 30 years. We could have released some chemical that could poison the marine vital plankton, which would mean that we would eventually start running out of oxygen, or we could be doing so much genetic damage to the human population that a few generations hence the offspring won't be viable, and in neither case would we know that we'd done this until long after it was too late to turn back.

BONN. It could already have happened?

COLE. It could already have happened.

CRONKITE. In this first report, we will try to suggest, at least, the enormous scope of the pollution problem alone, and the still undreamed of difficulty of any significant cleanup.

Every year in America, our power plants pour into our skies more than 800 million tons—that's tons—of carbon dioxide.

In those reports you'll hear from scientists who suspect that carbon dioxide can turn the planet into a kind of greenhouse, sealing in heat so that temperatures gradually rise, until the polar icecaps melt and our pleasant lands vanish beneath a new deluge.

Yet at the same time we are pouring out ground-up solids—in other words, dust—at the rate of almost ten million tons a year. You will hear from meteorologists who fear that the dust already is filtering out too much sunlight, so that the world's temperature has already started down, toward a new ice age.

We'll see this frightening pattern again and again—a science so far behind technology that it can't even predict which of two opposite catastrophes will occur. Yet our society, obsessed with short term gains and gross national product, continues on course—all of us comfortably assuming, like Mr. Micawber, that something will turn up.

In this country alone we pour more than 22 million tons of sulfur dioxide into our skies each year. Sulfur dioxide combines in the atmosphere to form sulfuric acid. Now, a major component of living things is sugar. Here is what happens when you pour sulfuric acid on sugar.

Every year in America we add 100 million tons of carbon monoxide to the air we breathe. Carbon monoxide is deadly poison.

The grand total, the best current estimate for all the junk we Americans throw away each year into our water, our land, and our sky: two and a half billion tons of pollution.

The answer seems easy and obvious: let's clean up. But there is one central lesson in this present crisis of crises: if an answer looks obvious, and especially if it looks easy, then it is wrong. Consider the automobile. It's become almost the symbol of our triumphant technological society, and it's the

number one source of air pollution in the world today. Now at last, under growing pressure, the industry has begun to clean up its own product. Every year the new cars pump out less pollution than the year before. Yet every year we Americans add almost three million more cars and trucks to the 90 million now on the road. So that sometime—estimates range between 1975 and 1990—total air pollution will start going up again, just from sheer masses of low pollution vehicles. One easy, obvious answer: switch to electric cars; they emit no pollution. But then we find that batteries are made of lead, and there isn't enough lead left in the world to power all the cars in this country alone. We know how to make batteries of other metals, but there's not enough of them either. Then we would discover that just to charge the batteries to run all the cars in America, we'd have to double our coal-burning power plants, which are already our number two air polluter, second only to the automobile.

None of this means that answers don't exist; we'll be exploring answers in this series. But it does mean that the answers are far more difficult, in some cases positively agonizing, than any of us yet dreams. And the answers are going to affect not just government, not just industry, but every one of us in some of our most cherished comforts, ideas and beliefs.

To assemble this series of reports, we have been talking with a good many people, some of the most brilliant and most troubled people this reporter has ever encountered. In coming months you will come to know them well. Perhaps we can end this report by hearing briefly some of their ideas.

ATHELSTAN SPILHAUS. I think one of the great errors that's made is in having a man who's in charge of air pollution, a man who's in charge of water pollution, a man who's in charge of solid wastes. The solid waste man will burn his stuff, put a horrible smoke into the air, and say well, that's not my business, that's the air pollution guy's business. And then the air pollution fellow will wash out the stuff in a chimney and discharge it into a river, and that's not his business, that's the water pollution man's business.

RENE DuBOS. If we continue destroying the natural environment, which is really part of human life, we will thereby destroy any chance that we can continue to express those qualities that have made human civilization. We will survive as animals, but not as human beings that have created civilization out of the splendor of the earth.

GEORGE WALD. There is no other place in the solar system for us, and I think we must be aware of that and not be fooled into thinking anything else. And, as I think my friend Louis Mumford said so well, there's nothing in the remainder of the solar system as precious as one acre of the earth. We'd better take good care of that acre.

CRONKITE. And that's the way it is, Monday, February 23rd, 1970. This is Walter Cronkite. Good night.

CBS EVENING NEWS WITH WALTER CRONKITE
(EXCERPTS)

SEVAREID. At the time of that giant leap for mankind last summer, the popular reaction was that if we can so magnificently do something so complicated as reaching the moon, then we ought to be able to clean up our environment and make our small space on earth fit for human habitation. But reaching the moon is a far simpler operation, for one reason: there are no people between earth and moon.

Here on earth the problem that people face

is people. Destruction of our living space is directly connected with the creation of more human lives. The greatest threat to the human race is its instinct for perpetuating itself.

When the Secretary of Health, Education and Welfare spoke to an environment meeting here the other day, he suggested that government might have to offer "distinguishes" to keep families small. And today Senator Packwood of Oregon introduced, or announced, rather, a bill that would forbid a taxpayer to claim tax exemption for more than three children.

That's a disincentive. There could be direct incentives to accomplish the same end. One idea is to provide a direct payment of, say, \$500 to families in low income brackets for each year they do not have a child, and to grant the same amount in tax relief to higher income families who don't have a child during the year.

A good many such proposals are on the way and will produce serious debate. Two things are beginning to dawn on many people of potential influence: one, that we can't diminish the poisoning of the earth's waters and air and the various associated malfunctionings of life unless we diminish the birth rate sharply; and two, that voluntary birth control, without the prod of direct economic incentives or disincentives is not going to diminish the rate sufficiently. Some people, looking far ahead, foresee the day of not only free and legal abortions, but compulsory sterilization as these things get truly desperate. The more immediate stage will be these financial devices.

Other peoples in the world, even those more desperately crowded, see the American problem in a different light. They see that with only six percent of the world's population, America consumes 35 percent of the raw materials produced every year on the entire globe. In terms of raw materials, food, power, living space, and general stuff, each American baby is a threat to the world's livability some 50 times bigger than each baby born in India.

At times most of us have probably felt an impulsive wish to isolate this country from the rest of the world and its troubles, but the rest of the world can't isolate itself from us and our effects upon the world.

CBS EVENING NEWS WITH WALTER CRONKITE

CRONKITE. In our first background report on Man and His Environment, we looked at the glamour problem, the first really "in" crisis of the '70s—catastrophic pollution. CBS NEWS, in a special broadcast later tonight, will examine pollution as a political issue, and the crusade it has generated among the young.

But pollution, in fact, is a symptom. The illness itself is so basic, so wrapped in man's deepest nature and inmost beliefs, that until not too long ago, you couldn't even discuss it.

RENE DuBOS. The population cannot continue to grow. It should not; it cannot. There will be disasters.

GEORGE WALD. There is no other way out. We're not being asked to start controlling the population; we're being told. We have to. The whole human enterprise, the whole human race, is threatened as never before.

CRONKITE. For most of man's two million years on earth, our history looked like that of any other species—a high birth rate, a high death rate, combining for a very slow expansion of population. Not until about the year 1830 were there a billion people on earth. But that slight upturn, starting around the end of the 18th century, became one of the most remarkable events in the history of life—the medical revolution. As science kept more and more of us alive longer and longer,

we reached our second billion in just 100 years, our third in 30 years. Today, human population is shooting up almost at right angles, so that by the year 2,000 there will be twice as many of us on earth as there are today, seven and a half billion people, with another billion every five years.

WALD. Really, what we must try to achieve is not a condition in which we're feeding as many people as possible on the surface of the earth, but producing that population that can best fulfill, exploit, realize human potentiality. It's an optimum population we're after, and from that point of view, the point of view of the quality of human life rather than the quantity, we probably already have an overpopulated world.

DUBOS. We will not control anything at all if the population continues to increase, and if the population here, the American population, is more guilty than any other, continues to demand or to be convinced to have ways of life that are really incompatible with a decent environment.

CRONKITE. You may have wondered, as we did at first, why this continuing insistence that saving the planet is overwhelmingly an American problem. Our population growth is barely one percent a year. Some parts of the world are exploding at seven times that. Only one of every 18 people alive today is an American. And yet, with just six percent of the world's population, we consume between 35 and 50 percent of the world's resources, and we create just about one half of the world's pollution. In fact, America's very success has become a planetary menace second only, perhaps, to nuclear war.

WALD. And I think what we're forced to realize is that it's hard to tackle now any of our major problems without coupling it with population control, that unless we control population, we're defeated in everything else we try to do—the pollution, the housing, the education, the nutrition, all, all, all, all, all the problems that confront us most seriously. Each one of them depends on controlling the population.

CRONKITE. There's one further reason why ours may be the last generation that can begin to save the future. Already today, by some estimates, one half of the world is undernourished. Ten or twenty million people starve to death each year. But the danger is from those who live. It's now clear that some forms of malnutrition in the unborn child and the infant can permanently impair development of the brain. In effect, the human race is frantically producing more and more people of lower and lower intelligence when what is needed is fewer people of even keener intellect than our own. Today, some of our best minds are doing some unpleasant thinking.

WALD. The principal way in which population is being held down at present is through infant mortality. That's the principal force that's limiting population in the world today. And that infant mortality is the product of war, famine, disease, poverty. What we're doing now is turning the Four Horsemen of the Apocalypse loose on the children of the earth. I cannot look on that as an ideal condition. And what I'm asking seems to me ever so much more humane, and it's precisely for reasons of humanity that I think we have to institute universally available birth control and abortion as rapidly as we can.

CRONKITE. Then are we, with what may be the last, best generation of brain power on earth, are we now ready to begin coping with, or even thinking about, the unthinkable? The indications are not promising. The present Congress is conceded virtually no chance of any meaningful action on the population explosion. President Nixon, in his environment message, states his belief that pollution is not the "inevitable by-product" of

growing population—a view we find shared by virtually no experts outside the Administration.

In preparing this report, we asked a number of those population experts, in and out of government, where in all the world we could take our cameras to study an effective, broad-scale program of population control. The answer: there is no such place.

And that's the way it is, Tuesday, February 24th, 1970. This is Walter Cronkite. Good night.

DIMENSION—WITH CBS NEWS CORRESPONDENT
WALTER CRONKITE

In a moment, a look at a monstrous problem—population control—and a first attempt to legislate a solution in the United States.

Toward the start of the industrial revolution, the gloomy English economist Robert Malthus, warned us that the world resources were limited—that our growing population would eventually outstrip them—that war, famine, and disease would be the result—nature's way of regaining its balance with mankind. Later on, it became the fashion to dismiss Malthus as no more than an interesting expression of a particular pessimistic period in history. Modern technology, it was felt had infinitely expanded the resources available to mankind—and could sustain humanity no matter how large its number. But now, the argument has taken another twist—and the weight of the authority today is that old Malthus really had something, after all. For one thing, the world population continues to expand—not in arithmetic but in geometric proportions. By the year 2000 it is estimated, the population of the world should be between 6 and 8 billion—and still growing, at the rate of another billion every 5 years.

As the population grows at such startling rates, we are failing to feed it. Perhaps half the world is under-nourished. 10 to 20 million people starve to death each year. Some of this is the fault of mal-distribution. The United States, for example, produces about 11,000 calories of basic food per day for each citizen while only 2,000 to 2,500 calories are needed to meet nutritional standards. But even with better distribution to sustain the world population by the year 2000, its food output probably will have to be doubled. Many authorities doubt this can be done.

Even if it could, it might be achieved at tremendous costs to our ecology—at best, ruining the quality of our lives; at worst, threatening our very survival.

Controlling United States population is a key question to the ecologist. The United States has less than 6% of the world's population—but it produces half the world's pollution by virtue of its prodigious consumption. New Americans make a much greater demand on the environment than, say, new Indians.

In line with such thinking, Oregon Senator Robert Packwood has introduced a new bill—providing economic incentives for smaller U.S. families. Starting with children born in 1973, a federal taxpayer could deduct \$1,000 each year for his first child—\$750 for the second—\$500 for the third but nothing for any others.

So far as we can ascertain, the Packwood Bill has fallen on deaf ears. There appears to be absolutely no response from his fellow legislators on the bill—and no chance of any action on the bill, at least in the immediate future.

This non-response is paradoxical, given the current furor over pollution, for the pollution and population problems are inextricably mixed.

The Packwood proposal may not be the answer—but ultimately, something must be

done to check the population explosion—otherwise all the massive action we're planning against pollution will inevitably come to naught.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. ALLEN in the chair). The Chair, on behalf of the Vice President, appoints Senator CHARLES H. PERCY to attend the Interparliamentary Union meeting, to be held at Monaco, March 30–April 4, 1970, in lieu of Senator CHARLES MCC. MATHIAS.

ORDER TO PRINT H.R. 14465 AS PASSED BY THE SENATE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that H.R. 14465, the Airport Extension Act, be printed as it passed the Senate.

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

ORDER OF BUSINESS

The PRESIDING OFFICER. At this time, in accordance with the previous order, the Chair recognizes the Senator from Nebraska (Mr. CURTIS) for not to exceed 30 minutes.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. CURTIS. I yield.

ORDER FOR RECOGNITION OF SENATOR MANSFIELD

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, upon the completion of the address by the able Senator from Nebraska (Mr. CURTIS), the able majority leader, the Senator from Montana (Mr. MANSFIELD), be recognized for not to exceed 15 minutes, prior to the Senate's taking up the transaction of routine morning business today.

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

POPULAR ELECTION OF THE PRESIDENT OF THE UNITED STATES

Mr. CURTIS. Mr. President, the Senate of the United States may soon be called upon to make an important and far-reaching decision on how we should elect the President of the United States. Before I discuss the details of this, I should like to make two observations.

The first is that the American system has worked very well for a long time. Never in this country have we ended up settling an election contest with bullets. I might also point out that the list of Presidents from the beginning of our Republic to the present day is made up of individuals who, from the standpoint of character, honesty, knowledge, and dedication to their country, stand far above the list of rulers of any other country on

earth for any similar period of time. There is no way that by revolutionary changes and by junking what we have we can reach perfection.

The second observation I should like to make is that we can make some corrections in our electoral voting system that meet the problems of our time without throwing out our basic and historical system of choosing the President.

The electoral voting system is not difficult to understand. There are advocates of the direct election of the President who claim that the electoral system is difficult to understand. I regard that as an argument of convenience more than an argument of fact.

Under the electoral voting system, we choose a President by action through the States. This not only has a sound basis historically, but also is a sound method in our present day and in the foreseeable future. Each State is entitled to as many electoral votes as it has Congressmen and Senators. By the 23d amendment to the Constitution the District of Columbia was given three electoral votes. This makes a total of 538 electoral votes for all the States and the District of Columbia. It requires 270 electoral votes for a majority. In the last election, President Nixon received 301.

Mr. President, perhaps no American has followed presidential elections in the last four elections more than the distinguished and able writer, Theodore H. White. He recently published an article entitled "Direct Elections: an invitation to national chaos." Let us see what he has to say.

Last September, in a triumph of noble purpose over common sense, the House passed and has sent to the Senate a proposal to abolish the Federal System.

It is not called that, of course. Put forth as an amendment to the Constitution, the new scheme offers a supposedly better way of electing Presidents. Advanced with the delusive rhetoric of vox populi, vox Dei, it not only wipes out the obsolete Electoral College but abolishes the sovereign states as voting units. In the name of The People, it proposes that a giant plebiscite pour all 70,000,000 American votes into a single pool whose winner—whether by 5,000 or 5,000,000—is hailed as National Chief.

I agree emphatically with Mr. White's assertion that the direct election of the President would wipe out the sovereign States as voting units. I would like to

raise the question—If the sovereign States are wiped out as voting units, will this not tend to lessen generally the powers of responsibilities of State and local governments? What is wrong with having a government close to the people? What is wrong in having the American people live under a system where they have the maximum amount of local self-government?

We are a union of sovereign States. Human liberty and genuine self-government can thrive best when we vest the maximum amount of power and authority in State and local governments. Our States are important. The States deal with the immediate problems facing our citizens. We should continue to elect our President through State action.

When the individual is born, his birth is recorded pursuant to State law. The attending doctor is licensed by the States. The house that an individual lives in and the nearby streets and highways are located and built pursuant to State law administered by the various subdivisions of the State. The basic responsibility for the individual's education rests with the States and its subdivisions.

When an individual acquires property, the deed to his lot or to his farm is drawn in accordance with State law. It is recorded in the local courthouse, which is a subdivision of the State. An individual enters one of the professions after meeting State requirements. Protection of the citizen from fire or violence is largely a State responsibility. The States and their subdivisions deal with the peculiar problems of a given locality. Decisions made by officials of State and local governments are usually decisions made by people who have on-the-spot knowledge and information. Most citizens can get to know the individual who represents them in the State legislature. They can reach their legislator with a minimum of travel. Self-government and good government as a matter of necessity must consist of the maximum authority and responsibility resting in local government. To make States and State boundaries insignificant in the selection of a President would hinder rather than help the cause of good government.

Any theoretical arguments that I might advance in favor of reform instead of abolition of the electoral voting system may not be persuasive but there are

additional facts. I doubt very much if a proposal to abolish the electoral voting system and provide for the direct election of the President of the United States can either pass the U.S. Senate or be ratified by a sufficient number of the States. For instance, based upon the last presidential election, my own State of Nebraska had ninety-two one-hundredths of 1 percent of the electoral vote. If a change were made to the direct election of the President, based upon the 1968 figures, Nebraska would have only seventy-three one-hundredths of 1 percent of the total popular vote. This was arrived at by ascertaining the percent of the total vote for all candidates for President cast by voters in Nebraska compared with the national total of all votes cast for President. In other words, Nebraska's proportionate voting power in choosing a President would be reduced by 20 percent.

Let us take the case of New Hampshire. In 1968 New Hampshire had seventy-four one-hundredths of 1 percent of the total electoral vote, but they had only forty one-hundredths of 1 percent of the total popular vote.

In the last election the weight of the electoral vote for the District of Columbia amounted to fifty-five one-hundredths of 1 percent of the total electoral vote. But if the election had been determined by a popular election, the weight of the vote for the District of Columbia would have been only twenty-three one-hundredths of 1 percent of the total vote.

The States that would be adversely affected by the direct popular election of the President are: Alabama, Alaska, Arizona, Arkansas, Colorado, Delaware, District of Columbia, Georgia, Hawaii, Idaho, Iowa, Kansas.

Kentucky, Louisiana, Maine, Maryland, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota.

Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, West Virginia, Wyoming.

I ask unanimous consent to have printed in the RECORD a table illustrating this, which was prepared by the Library of Congress.

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

1960 AND 1968 PRESIDENTIAL ELECTIONS

	Total electoral votes, 1960	Total electoral votes, 1968	Total percentage of electoral vote, 1960	Total percentage of electoral vote, 1968	Total percentage of total popular vote, 1960	Total percentage of total popular vote, 1968
Alabama.....	11	10	2.04	1.85	0.82	1.42
Alaska.....	3	3	.55	.55	.08	.11
Arizona.....	4	5	.74	.92	.57	.66
Arkansas.....	8	6	1.48	1.11	.62	.83
California.....	32	40	5.95	7.43	9.45	9.90
Colorado.....	6	6	1.11	1.11	1.06	1.10
Connecticut.....	8	8	1.48	1.48	1.77	1.71
Delaware.....	3	3	.55	.55	.28	.29
District of Columbia.....	3	3	.55	.55	.23	.23
Florida.....	10	14	1.86	2.60	2.24	2.98
Georgia.....	12	12	2.23	2.23	1.06	1.68
Hawaii.....	3	4	.55	.74	.26	.32
Idaho.....	4	4	.74	.74	.43	.39
Illinois.....	27	26	5.02	4.83	6.91	6.21
Indiana.....	13	13	2.42	2.41	3.10	2.90
Iowa.....	10	9	1.86	1.67	1.85	1.59
Kansas.....	8	7	1.48	1.30	1.34	1.19
Kentucky.....	10	9	1.86	1.67	1.63	1.44
Louisiana.....	10	10	1.86	1.85	1.77	1.49
Maine.....	5	4	.93	.74	.61	.53
Maryland.....	9	10	1.67	1.85	1.53	1.68
Massachusetts.....	16	14	2.97	2.60	3.58	3.18
Michigan.....	26	21	3.72	3.90	4.82	4.51
Minnesota.....	11	10	2.04	1.85	2.23	2.17
Mississippi.....	8	7	1.48	1.30	.43	.89
Missouri.....	13	12	2.42	2.23	2.81	2.47
Montana.....	4	4	.74	.74	.40	.37
Nebraska.....	6	5	1.11	.92	.89	.73
Nevada.....	3	3	.55	.55	.15	.21
New Hampshire.....	4	4	.74	.74	.42	.40
New Jersey.....	16	17	2.97	3.15	4.02	3.92
New Mexico.....	4	4	.74	.74	.45	.44
New York.....	45	43	8.37	7.99	10.72	9.27
North Carolina.....	14	13	2.60	2.41	1.98	2.16

1960 AND 1968 PRESIDENTIAL ELECTIONS—Continued

	Total electoral votes, 1960	Total electoral votes, 1968	Total percentage of electoral vote, 1960	Total percentage of electoral vote, 1968	Total percentage of total popular vote, 1960	Total percentage of total popular vote, 1968		Total electoral votes, 1960	Total electoral votes, 1968	Total percentage of electoral vote, 1960	Total percentage of electoral vote, 1968	Total percentage of total popular vote, 1960	Total percentage of total popular vote, 1968
North Dakota	4	4	0.74	0.74	0.40	0.33	Utah	4	4	0.74	0.74	0.54	0.57
Ohio	25	26	4.65	4.83	6.04	5.41	Vermont	3	3	.55	.55	.24	.22
Oklahoma	8	8	1.48	1.48	1.81	1.29	Virginia	12	12	2.23	2.23	1.12	1.85
Oregon	6	6	1.11	1.11	1.12	1.12	Washington	9	9	1.67	1.67	1.30	1.78
Pennsylvania	32	29	5.95	5.39	7.27	6.48	West Virginia	8	7	1.48	1.30	1.21	1.03
Rhode Island	4	4	.74	.74	.58	.52	Wisconsin	12	12	2.23	2.23	2.51	2.31
South Carolina	8	8	1.48	1.40	.56	.91	Wyoming	3	3	.55	.55	.20	.17
South Dakota	4	4	.74	.74	.44	.38	Total	537	538				
Tennessee	11	11	2.04	2.04	1.52	1.70							
Texas	24	25	4.46	4.64	3.85	4.20							

Mr. CURTIS. Mr. President, I do not believe that the Senators from those States which would be adversely affected will vote for a direct election of the President of the United States. I do not think they should. I do not believe any of us has a mandate to partially disenfranchise our State. For the same reasons, I do not think that an amendment providing for the direct election of the President would be ratified by three-fourths of the States, neither do I think it should be.

Mr. President, I would now like to read the balance of Mr. White's article:

American elections are a naked transaction in power—a cruel, brawling year-long adventure swept by profound passion and prejudice. Quite naturally, therefore, Constitution and tradition have tried to limit the sweep of passions, packaging the raw votes within each state, weighting each state's electoral vote proportionately to population, letting each make its own rules and police its own polls.

The new theory holds that an instantaneous direct cascade of votes offers citizens a more responsible choice of leadership—and it is only when one tests high-minded theory against reality that it becomes nightmare.

Since the essence of the proposal is a change in the way votes are counted, the first test must be a hard look at vote-counting as it actually operates. Over most of the United States votes are cast and counted honestly. No one anymore can steal an election that is not close to begin with, and in the past generation vote fraud has diminished dramatically.

Still, anyone who trusts the precise count in Gary, Ind.; Cook County, Ill.; Duval County, Texas; Suffolk County, Mass.; or in half a dozen border and Southern states is out of touch with political reality. Under the present electoral system, however, crooks in such areas are limited to toying with the electoral vote of one state only; and then only when margins are exceptionally tight. Even then, when the dial riggers, ballot stuffers, late counters and recounters are stimulated to play election-night poker with the results, their art is balanced by crooks of the other party playing the same game.

John F. Kennedy won in 1960 by the tissue-thin margin of 118,550—less than 1/5 of one percent of the national total—in an election stained with outright fraud in at least three states. No one challenged his victory, however, because the big national decision had been made by electoral votes of honest-count states, sealed off from contamination by fraud elsewhere—and because scandal could as well be charged to Republicans as to Democrats. But if, henceforth, all the raw votes from Hawaii to Maine are funneled into one vast pool, and popular results are as close as 1960 and 1968, the pressure to cheat or call recounts must penetrate every-

where—for any vote stolen anywhere in the Union pressures politicians thousands of miles away to balance or protest it. Twice in the past decade, the new proposal would have brought America to chaos. To enforce honest vote-counting in all the nation's 170,000 precincts, national policing becomes necessary. So, too, do uniform federal laws on voter qualifications. New laws, for example, will have to forbid any state from increasing its share of the total by enfranchising youngsters of 18 (as Kentucky and Georgia do now) while most others limit voting to those over 21. Residence requirements, too, must be made uniform in all states. The centralization required breaches all American tradition.

Reality forces candidates today to plan campaigns on many levels, choosing groups and regions to which they must appeal, importantly educating themselves on local issues in states they seek to carry. "But if states are abolished as voting units, TV becomes absolutely dominant. Campaign strategy changes from delicately assembling a winning coalition of states and becomes a media effort to capture the largest share of the national "vote market." Instead of courting regional party leaders by compromise, candidates will rely on media masters. Issues will be shaped in national TV studios, and the heaviest swat will go to the candidate who raises the most money to buy the best time and most "creative" TV talent.

The most ominous domestic reality today is race confrontation. Black votes count today because blacks vote chiefly in big-city states where they make the margin of difference. No candidate seeking New York's 43 electoral votes, Pennsylvania's 29, Illinois' 26 can avoid courting the black vote that may swing those states. If states are abolished as voting units, the chief political leverage of Negroes is also abolished. Whenever a race issue has been settled by plebiscite—from California's Proposition 14 (on Open Housing) in 1964 to New York's Police Review Board in 1966—the plebiscite vote has put the blacks down. Yet a paradox of the new rhetoric is that Southern conservatives, who have most to gain by the new proposal, oppose it, while Northern liberals, who have most to lose, support it because it is hallowed in the name of The People.

What is wrong in the old system is not state-by-state voting. What is wrong is the anachronistic Electoral College and the mischief anonymous "electors" can perpetrate in the wake of a close election. Even more dangerous is the provision that lets the House, if no candidate has an electoral majority, choose the President by the undemocratic unit rule—one state, one vote. These dangers can be eliminated simply by an amendment which abolishes the Electoral College but retains the electoral vote by each state and which, next, provides that in an election where there is no electoral majority, senators and congressmen, individually vot-

ing in joint session and hearing the voices of the people in their districts, will elect a President.

What is right about the old system is the sense of identity it gives Americans. As they march to the polls, Bay Staters should feel Massachusetts is speaking, Hoosiers should feel Indiana is speaking; blacks and other minorities should feel their votes count; so, too, should Southerners from Tidewater to the Gulf. The Federal System has worked superbly for almost two centuries. It can and should be speedily improved. But to reduce Americans to faceless digits on an enormous tote board, in a plebiscite swept by demagoguery, manipulated by TV, at the mercy of crooked counters—this is an absurdity for which goodwill and noble theory are no justification.

Mr. President, I believe that Mr. White has called the attention of the American people to a very serious threat. At the same time Mr. White has made some positive suggestions for correcting our electoral voting system. I think we are all agreed that it is not the "college" that is valuable or what we want to preserve. It is the electoral system of voting. We want to preserve the method of electing Presidents by States.

As a Senator who comes from a State which has a small portion of the population, I readily admit that our present system of counting the votes in Congress in case of a tie should be corrected. At the present time if no candidate for President gets a majority of the electoral vote the choice is made by the House of Representatives and each State has one vote. It is not necessary to argue that Alaska should not have an equal voice in deciding a tie in the House of Representatives with our heavily populated States such as California or New York. I agree with Mr. White that a correction should be made so that both the House of Representatives and the Senate meet in joint session and that each Representative in Congress and each Senator have one vote in deciding the tie. This maintains the Federal system. It maintains the historic balance between States and numbers of people.

I also believe that any new constitutional amendment advanced should be such that there is no chance that the electoral vote will be counted contrary to the way the people of State vote. We should not have a system in which electors have power to substitute their own views for the expressed views of the voters.

It seems to me that we might well

change our electoral voting system so that the electoral votes in a given State, which are based on the number of Representatives in Congress that a State has, be determined by congressional districts rather than at large. The electoral votes which represent the two Senators that each State has must continue to be determined by the total vote of a State.

At the present time a candidate for President must get a majority of the vote in a populous State or lose its entire electoral vote. This might place a temptation before candidates and political parties to declare for plans and programs not in the best interests of the entire United States, but necessary in order to reach a radical swing vote deemed necessary to carry the State. If, on the other hand, a populous State elects 30 or 40 or more electors by districts, the party and the candidate can strive to carry as many districts as possible and obtain a substantial number of electoral votes even though they do not carry the entire State. Such a procedure would not place the temptation before the candidate to make unwise or unrealistic promises for fear of losing the total electoral vote in a heavily populated States.

The election of presidential electors by districts would also encourage the two-party system. A candidate or a political party could realistically make a drive to carry a few congressional districts in a State where they had little chance of carrying the entire State because of past one-party control. It could well be an incentive for the building of a real two-party system for every State in the Union.

Mr. President, Mr. White's statement that direct election of the President of the United States is an invitation to national chaos is not an exaggeration. Why should we make such a revolutionary change when our present system has worked so well and so long? Why should we not be content with correcting our electoral voting system rather than junking it?

Already some people have advocated a direct primary as a means for the parties to choose their candidates for President. If such a thing would happen, will an unlimited number of candidates be allowed to place their name on a nationwide primary ballot? Or should the number be limited to five, 50, or 100? If there is a limitation, who will decide what names go on the ballot? Will the nominations go to the candidates with the greatest amount of money who can mount the most massive high-powered advertising campaign?

It is true that the nomination of candidates for President by direct primary is not before us. It will be before us if we make the tragic step of abolishing our electoral voting system and turn to the direct election of the President. We should oppose the direct election of the President because our present system gives the greater protection to individual citizens and to their liberties and in reality gives the greater weight to their expressed desire to whom should become President.

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

Mr. CURTIS. I am happy to yield to the Senator from Alabama.

Mr. ALLEN. Mr. President, I would like to congratulate the distinguished Senator from Nebraska on this excellent analysis of the problems having to do with possible reform of our electoral college and reform of the method of choosing the President of the United States. Certainly I agree with the distinguished Senator in his conclusion that the direct election is not the proper route to go. I am impressed very much with his statement that the route of direct election of the President would be the beginning of the destruction of our Federal system, which has worked so well for this country for almost 200 years.

Has the distinguished Senator given thought to the provision in the proposal that will soon be before the Senate that permits a President by the direct election method to be chosen by a 40-percent plurality. Does the Senator think that provision is in the public interest?

Mr. CURTIS. Mr. President, I thank the distinguished Senator for his comment about my remarks.

As to the answer to the Senator's question, I do not like that 40-percent provision. I believe, however, it tends to obscure the real danger, which is the direct election of the President. It is my hope that those who advocate direct election of the President will recall their proposal, because if they insist on that proposal there will be no reform in electoral voting. That would be unfortunate because we should make at least two reforms: First, to provide that we do not have a system under which an elector could substitute his judgment for that of the people who voted a certain way and who are entitled to have the elector vote that way; and second, the matter of deciding ties. I think at the present time this cannot be justified. We should make some corrections there, but if there is an insistence upon an amendment to provide for the direct election of the President going to the States there will be no reform whatever.

I agree with the distinguished Senator on the 40-percent minimum. I have changed some of my own thinking on that point in recent months because I felt we must concentrate on the larger problem of the direct election system.

Mr. ALLEN. Is it not true that if there be fraud or corruption in the conduct of any election in any State, under the present system that fraud or corruption would be sealed off into the particular State involved, whereas, under the direct election system any fraud or corruption would apply to the whole body or pool of votes of the entire country?

Mr. CURTIS. Counting the votes by States, any corruption is quarantined, so to speak, and its effect limited to the wrong that might come in that particular State. If it is all put into one pool there would be corruption in that pool.

Mr. ALLEN. Mr. President, the Senator has made a great contribution to the debate on this subject. The fact that the Senator is opposed to the direct system but would favor some other type of reform, I believe, foretells the defeat of the amendment providing for

the direct election because I believe that fully one-half of the Members of the Senate are opposed to the direct system but they would be unable to agree on any substitute plan.

For that reason, it seems likely to the junior Senator from Alabama that there will be no reform at this point. Does the Senator feel that that is a likelihood?

Mr. CURTIS. I do. There are 34 of the 50 States that would be adversely affected if we changed to the direct election of the President. I do not believe they have any such mandate from the people back home to lessen the power of their sovereign States in choosing the President.

Mr. ALLEN. The Senator's argument is that the voter in Nebraska wants to go to the polls feeling he is going to be a part of the Nebraska vote, and when the Nebraska vote is counted it will count for something because it will be represented in the electoral vote of the State of Nebraska. It will not be commingled with 75 million other votes, and will be identified with that single State.

Mr. CURTIS. When I cast my vote in Nebraska, it will not be buried under a tombstone in Chicago.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. HART in the chair). Under the previous order, the Senator from Montana is recognized for 15 minutes.

LAOS

Mr. MANSFIELD. Mr. President, I take the floor of the Senate at this time because of the serious situation in Laos. I do so not to criticize, but, if possible, to be constructive, to be helpful, and to wave a warning flag about this area which might perhaps be helpful in preventing our becoming involved too deeply and in too costly a manner. When I speak of costly, I do not mean money alone, but total cost, including manpower.

Perhaps, the Pathet Lao and their North Vietnamese allies may stop the offensive on the Plain of Jars, short of the cities of Vientiane and Luang Prabang; that would be in the pattern of previous operations. Then again, they may push forward against these two capitals and press to the border of Thailand. Only time will indicate what plans and objectives may be involved. In any event, the question of the "nonwar" or the "secret-war" or "interlude war" in Laos cannot be avoided any longer.

Notwithstanding the Geneva accord of 1962, the North Vietnamese are deeply involved in this military situation. So, too, is the United States. Press reports indicate that the Thais may also be engaged. The involvement is so transparent on both sides as to make less than useless the effort to maintain the fiction of the accord or even to exchange charge and countercharge of violations. We are both in it—North Vietnamese and Americans—and we are in it up to our necks.

What disturbs me is that it is not only that both nations are forbidden by the Geneva agreement to use forces in Laos

but that the President has also made clear that he does not desire to see U.S. forces used in Laos. May I add that I have every confidence in the President's intentions. Yet the presence of American military advisers and others in Laos cannot be camouflaged any longer, notwithstanding the situation of the Symington hearings.

The military operations about which we know so much, and yet so little, seem to depend heavily on hill people from the Lao-Vietnamese border highlands. With these tribesmen, who are not Lao but Meo, there has been a close U.S. military or paramilitary connection which predates the Geneva Accord of 1962. According to the press, the connection is still there.

In any event, neither the Meo nor the Lao regular armies have been able to hold back the combined North Vietnamese-Pathet Lao pressure. The result is that a further "Americanization" of the war in Laos has taken place which now seems to be matching the effort to "Vietnamize" the situation in South Vietnam. It has been estimated that American bombers make 500 or more sorties daily over Laos and that the United States is spending something on the order of \$200 million to \$300 million for aid to Laos.

It needs to be recalled at this time, therefore, that the full-scale U.S. involvement in Vietnam evolved from much smaller beginnings. First, it was a little more aid and a few more military advisers, then it was the supply of transportation, then air support, and then GI's.

I am sure that the President does not want that sequence to be repeated. The Defense Department has been at pains to gainsay it. In that respect, this President's intentions are not unlike those of his predecessor at the beginning of the Vietnamese involvement; the protestations of this Secretary of Defense also have a not unfamiliar ring. Nevertheless, a parallel can develop in Laos. Will we hear next what became the fateful rationale of the war in Vietnam? Will we hear next that a larger war is not up to us but up to them? Will we submerge in that rationale, once again, our responsibility to decide where and when in consideration of national interests we shall risk the lives of Americans? Will we affirm that fundamental responsibility or leave it to others who have no reason to use it for this Nation's well-being?

To be sure, there is no question that the North Vietnamese have ignored the Geneva accord of 1962 to which they are signatory. Does that compel us to take it upon ourselves to do the same? There are other signatories of the accord. Have the others immersed themselves in the war? Has the Soviet Union? The United Kingdom? France? Indeed, has China? How can a deepening involvement in Laos accord with the vital interests—and I use the word advisedly—of this Nation? Does it accord with the new Nixon doctrine—which I fully support—which propounds a reduction of our military enmeshment on the Southeast Asia mainland? Does it fit with the need for resources to meet the inner needs of this Nation?

The North Vietnamese have long since moved troops into the border areas of Northeastern Laos to guard the so-called Ho Chi Minh trails. These are the routes by means of which men and supplies move down into South Vietnam. By the same token, American planes have long since been bombing the trails. The bilateral violations of the Geneva accord in this case at least have been directly related to the war in Vietnam.

Of late, however, both Americans and North Vietnamese have expanded military activities further into Laos, in the region of the Plain of Jars. There is reported to be something on the order of 45,000 to 50,000 North Vietnamese now on the northern border of Laos. According to reports, not only has manpower increased but antiaircraft missiles have been implanted. On the part of the United States the bombing in Laos is reported to be heavier than it was in North Vietnam and that there could now be as many as 20,000 sorties a month.

In short, the war seems to be pouring out of South Vietnam through the Laotian panhandle into the rest of Laos and the rest of Indochina. Even Cambodia, which has sought wisely, behind the wall of neutrality, to hold back the jungle of war has felt, of late, the intensified pressure of this flow of destruction.

As in 1965, the events in Laos caution that the threat of a continuing inconclusive involvement in Southeast Asia remains unchanged. Indeed, it may be enlarging to embrace Laos. If the military seesaw goes down in Vietnam only to rise in Laos, our situation will not have improved; it will have worsened. In my judgment, only the utmost vigilance, on the part of the responsible officials of this Government, of the President, and the Senate in particular, and of the press will counteract this inevitable tendency.

Prince Souvanna Phouma has said that he was going to ask cochairmen of the Geneva accord, the United Kingdom and the Soviet Union, to call a meeting of all the signatories to put into effect the agreement of 1962. This renewed call is to be commended, and certainly it should be supported in every possible way. It would be my hope that all signatories to the Geneva accord would meet in an effort to restore a measure of stability to the situation in Laos. Moreover, the scope of any such meeting might be enlarged to include the situation in all of Southeast Asia, with the participation of other affected nations, such as Cambodia and Thailand.

If the United Kingdom and the Soviet Union, as cochairmen, would call this conference, it might be possible to draw still useful guidance from the Geneva agreements of 1954 which involved the three Indochinese States. As for Laos, the agreement of 1962 seems to me, still, to be valid. In retrospect, this agreement was never given a full opportunity to get off the ground. Negotiations in Paris or in Geneva but, in any event, at an authoritative level, seem to me still to offer the best prospect for a settlement which would enable the United States to withdraw completely from the present military involvement on the Southeast Asia mainland.

When that has come about, it would be my hope that, as one of the signatories outside of Southeast Asia, we would join with the others in bona fide multilateral guarantees of the neutrality of that region. In that manner the small nations of that part of the world might have an opportunity to develop in an independent manner—an opportunity which they have not known for centuries.

The time is short; the time is now to face up to the implications of this worsening situation in Laos. The danger of our over-extended commitment in Southeast Asia needs to be considered frankly and without delay. The fact is that the President and the Congress have still not corralled an open-ended military involvement in a part of the world which is not directly vital to our security, in a part of the world in which the involvement was a misfortune to begin with and every day of its continuance a tragedy.

Mr. GURNEY. Mr. President, will the distinguished majority leader yield?

Mr. MANSFIELD. Yes, indeed.

Mr. GURNEY. All of us here in the Senate certainly understand the genuine concern of the majority leader as to this whole affair in Southeast Asia, as I think it is the concern of all of us in the Senate, as well as the President and the executive branch of the Government.

However, in making his comments on Laos, it is not the suggestion of the distinguished majority leader that we cease all bombing of the Ho Chi Minh Trail in Laos; is it?

Mr. MANSFIELD. Unfortunately, as long as the war in South Vietnam continues, there is the continuation which the Senator is alluding to, which is tied directly to the war in Vietnam and has to do with the infiltration of men and supplies down that trail into South Vietnam, where they come in contact and combat with American soldiers, among others.

Such is not the case in the area around the Plaine des Jarres, in central Laos, where, to the best of my knowledge, there are no U.S. combat troops. I believe that is a true statement of fact.

Mr. GURNEY. I am delighted to hear that, and I was sure the distinguished majority leader would reassure us on that point, because as long as the Ho Chi Minh Trail is the principal supply route, in order to protect our troops it does seem we have to hit it with our bombers.

Mr. MANSFIELD. Yes, but I am sure the Senator is aware that there have been reports, seemingly authentic, that B-52's which had been used in close combat support when the marines were entrenched at Khesanh, along the demilitarized zone, and had been used along the Ho Chi Minh Trail, have lately been used in the area of the Plaine des Jarres, a long way from the trails themselves, which is an escalation on our part.

Mr. GURNEY. I realize that. I just wanted to point out that there was a difference between the necessary bombing along the Ho Chi Minh Trail and this other involvement we have been reading about the last few days.

Mr. MANSFIELD. The Senator is correct. There is a difference between the

two. One has been long recognized and in operation; the other has been in effect only a short time.

I also am fully aware, may I say to the distinguished Senator from Florida, of the predicament in which President Nixon finds himself, because he did not start this war. He has to contend with it, though, and what I have endeavored to say this morning, as I indicated at the beginning, is that I hoped these remarks would be constructive and helpful to him in finding a solution.

Several Senators addressed the Chair.

Mr. MANSFIELD. I yield first to the Senator from Virginia.

Mr. BYRD of Virginia. Mr. President, I have not heard the entire address of the Senator from Montana, so I cannot comment on his total address; but, as I understand it, the Senator from Montana feels that more information should be given to the public with regard to U.S. activities in Laos.

I join the Senator from Montana in expressing the view that it would be wise, as I see it, to give the public greater information than that which has been given in the past.

This situation in Laos has been going on for a long time. There has been bombing in Laos for many years now.

At the end of 1968, 10 percent of all the bombs that were dropped during this Vietnamese war had been dropped on Laos. I have not checked the facts recently, but my guess would be, and I think it would be a rather accurate guess, that at this point there has been a greater tonnage of bombs dropped on Laos than there has been on North Vietnam.

Mr. MANSFIELD. The Senator is correct; that is my information as well.

Mr. BYRD of Virginia. Of course, the greatest tonnage of bombs has been dropped on South Vietnam, but next to South Vietnam is Laos, and third, North Vietnam.

While I cannot comment on the total statement made by the distinguished Senator because I did not hear it all, I do wish to join with him in urging that the American people be given all possible facts in regard to American activity in Laos.

Mr. MANSFIELD. Mr. President, may I say, before I yield to the distinguished Senator from Ohio, that I mentioned the status of the Symington committee only in passing, but I agree with the distinguished Senator from Virginia that it would be in the best interests of the administration, the Senate, and the American people as a whole if the State Department and the Committee on Foreign Relations could get together and would issue a sanitized version of the Symington committee hearings; otherwise the people are going to raise questions, and they are going to say, "Where there is smoke there is fire," and the net result will be a great deal more difficult than if all the issues which could possibly be set forth at this time, security being considered, were laid out for all of us to see.

I yield to the Senator from Ohio.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MANSFIELD. I ask unanimous consent for 2 additional minutes.

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

Mr. YOUNG of Ohio. Mr. President, having listened to the statement made this morning by the distinguished majority leader—and it was a very important statement indeed—I trust that the American people will have an opportunity to read that statement in detail. I wish to associate myself with the position taken by the distinguished majority leader. He has, in a way, echoed my views and what I have been thinking regarding our involvement in Laos.

In October of 1965 I spent approximately 10 days in Laos, and again in 1968 I was in every area of Laos. I went by helicopter to many places, and not only that, but, just as the distinguished majority leader has done, at a time preceding my visit I had an opportunity to meet, interview, and talk at length with Prince Souvanna Phouma.

First, I wish to say that Laos is just about the most undeveloped country that I have ever visited. That country is certainly not worth the life of one American soldier. I think the facts are that our situation and our involvement in Laos and in the fighting there have been increasing in recent weeks, and the entire prospect for early peace in Southeast Asia seems to be dwindling.

Mr. President, I know, from being there, observing the places, and recognizing the names of the areas where our B-52's have been constantly bombing in recent days, that some of the places we have bombed are about 200 miles away from the Ho Chi Minh Trail. That bombing has nothing to do with infiltration from the north.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. YOUNG of Ohio. I ask unanimous consent that I may proceed for 3 additional minutes.

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

Mr. YOUNG of Ohio. The facts are that, despite what we were led to believe, that our President had a secret plan to end the war in Vietnam, our involvement there has been escalating and increasing. For example, just recently we read of three newspapermen who did on a larger scale what I tried to do in Laos and Vietnam. I tried to get away from the restrictions placed around me, and they went on their own. They walked some 8 miles, and there they saw American soldiers dressed as civilians, but armed with our weapons, whom they were not supposed to see. The CIA seems to be running things, and I say to our distinguished majority leader that from my observation of what was going on in 1968 in Laos, it seems to me that the CIA was running the show then, and that the Central Intelligence Agency, in its operations in Laos, while it may be called a watchdog, is a watchdog that badly needs a master; and by a master, I mean the U.S. Senate.

Those newspapermen observed our B-52 bombers leaving on bombing missions in Laos, at 1-minute intervals, with

huge loads of bombs. I recall distinctly that when I was in Laos in 1965, our American warplanes were disguised, because we had guaranteed the neutrality of Laos.

When I was in Laos last year, we Americans were openly bombing Laos and, of course, we are doing that openly now. A civil war has been waged in Laos since shortly following World War II. Just the other day the CIA—I think this is touched upon in a front page story in the Washington Post today—forcibly removed 13,000 Laotians, moving them from the area of the Plain of Jars down closer to Vientiane because they believed they were Pathet Lao or were sympathizing with the Pathet Lao.

So this is another situation in which, unfortunately, we Americans are becoming more and more involved in another civil war in Southeast Asia, when we are still involved in a civil war in Vietnam. There can be no argument about that.

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

Mr. YOUNG of Ohio. I ask unanimous consent that I may be permitted to proceed for 2 additional minutes.

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

Mr. YOUNG of Ohio. Gen. Richard Stilwell, the chief deputy, told me that 80 percent of the people living in the Mekong Delta, south of Saigon, were sympathetic with and fighting for the National Liberation Front, on the side of the VC.

We should be aware—and I am glad that the majority leader has called attention to it—that the industrialists with huge defense contracts and the generals of our Joint Chiefs of Staff seem to be leading us into another ground and air war in Southeast Asia. At present we are waging an air war on a tremendous scale in Laos. Very soon we shall have dropped more bombs in Laos than we dropped in Germany in World War II, and perhaps we have exceeded that total right now. This is contrary to the intent of the National Commitments Resolution adopted in the Senate. It is contrary to the recent amendment to the Defense appropriation bill prohibiting the introduction of U.S. ground combat troops into Laos without receiving the authorization of Congress to conduct such warlike activities.

Of course, as we have guaranteed the neutrality of Laos, we have violated our own guarantee. Is it any wonder that there is rioting against us in Asian nations?

There is beginning to be a feeling prevalent in Asia and in the capitals of the world that Americans do not live up to their commitments. We in the Senate want to live up to our commitments. We want to maintain the neutrality of Laos which was guaranteed.

We have learned very little from the past, Mr. President. We continue to escalate our involvement in the civil wars of other countries. Yet, we hide our involvement from the American people. I am glad that the majority leader has spoken out on this matter this morning. I am

happy that he has called upon the Department of State and the President of the United States to give to the Committee on Foreign Relations a full report on our war-like activities in Laos, even though that report may demonstrate that we have violated our word to preserve the neutrality of Laos. This information should be given to the Committee on Foreign Relations so that the chairman of that committee, the Senator from Arkansas (Mr. FULBRIGHT), may release it to the Senate.

Mr. MOSS. Mr. President, I should like to associate myself with remarks of the majority leader. On Friday last, in the Senate, I made some remarks about our involvement in Laos, and I think they are in accord with those expressed this morning by the majority leader.

ANNOUNCEMENT ON VOTES

Mr. MOSS. Mr. President, I would like the RECORD to show how I would have voted on the various rollcall votes taken last Saturday in the Senate. Most unfortunately, I was absent on Saturday, due to a commitment made on Thursday. By the time I learned late on Friday that the Senate would convene on Saturday, I could not change my appointment. People were already traveling from Vancouver, British Columbia, Edmonton, and Toronto, to keep the meeting to which I had agreed. I simply could not break my word to them. So I left early on Saturday to fly to Ottawa and returned on the night plane. My 15-hour absence caused me to miss nine record votes. Obviously, other Senators were in similar situations, since nearly one-third of the Senators were absent and not voting Saturday last.

While I have the floor, I wish to record my disappointment that Senators cannot rely on times of sitting of the Senate. I realize that the majority leader has issued a general warning that there may be Saturday sessions. But only a week ago I attended a meeting of Senators where the leader was asked—and I thought agreed—that Saturday sessions not be held except under very pressing circumstances. It was there recognized that all Senators have many pressing engagements which call them away on weekends. Moreover, just the Saturday before I had canceled appointments in my home State and stayed in Washington because the majority leader had responded to the inquiry of the minority whip that "there may very well be votes" on the next Saturday. With that statement in the RECORD, I stayed in Washington only to have the Senate adjourn early on Friday and convene not at all on Saturday, February 21.

The past week, I had to make an election to be gone on Friday or Saturday. Friday was represented as the big day on the HEW appropriations bill. So I stayed Friday for one record vote. Saturday, I had to leave. My votes on Saturday, February 28 would have been:

- For ratifying the treaty.
- For the Mathias amendment.
- For the second Mathias amendment.
- For the Scott amendment.
- For the Spong amendment.
- Against the Javits amendment.

For the motion to table the Hruska amendment.

Against the Hruska amendment.

For the HEW appropriation bill on final passage.

Since no division was so close that my vote would have been decisive, hindsight says my absence does not matter too much. But I do not view it that way. The citizens of Utah sent me to represent Utah in the Senate. That I try to do with fidelity. My people have strong views in priorities of spending and most strongly believe that aid to education and health deserves full support. I wanted to speak for their point of view and to record my vote for the full appropriation reported by the committee. I supported the first HEW appropriation bill, opposed the veto, and would have raised this appropriation bill to the same figures if I could.

DEEP SUBMERGENCE RESCUE VEHICLE—ANOTHER EXAMPLE OF DEPARTMENT OF DEFENSE COST UNDERESTIMATING

Mr. WILLIAMS of Delaware. Mr. President, today I call attention to another example wherein the Department of Defense in 1964 under Secretary McNamara grossly underestimated the cost of the development of 12 deep submergence rescue vehicles when asking for congressional authorization and then after gaining approval of the project allowed costs to escalate by over 2,000 percent.

My remarks are not a criticism of the development of this rescue vehicle—on the contrary, I support the objective and can understand some discrepancy in the estimated cost of the new weapon, but certainly there can be no justification for such a wide error in the estimate presented to Congress.

The deep submergence rescue vehicle is intended to be a small submersible vehicle designed to rescue personnel from a disabled submarine. It is expected to weigh about 35 tons and to be approximately 50 feet long. In the event of a disaster where rescue is possible the deep submergence rescue vehicle would be transported by aircraft to the port nearest the disaster. From there it would be carried to the site by either an auxiliary submarine rescue ship or a specially configured submarine, either of which could act as the supporting ship. The deep submergence rescue vehicle would then shuttle between the bottomed submarine and the supporting ship, carrying a maximum of 24 rescues on each trip.

In February 1964 the Navy estimated that a rescue system including 12 deep submergence rescue vehicles could be developed in 4 years. The estimated cost for development and 1 year of operation was \$36.5 million. Further, Congress was told that introduction of the deep submergence rescue vehicle system was to result in a savings of \$37.2 million by permitting a phaseout of an existing rescue system.

This represented an average cost of \$3 million per unit, and allegedly even this cost would be offset by a phaseout of an existing rescue system.

In 1969 the Navy estimated that ob-

taining a rescue system of six deep submergence rescue vehicles would take a total of 10 years—1964 to 1974—and would cost about \$463 million. Of this cost about \$125 million has already been allocated, \$31 million has been requested for fiscal year 1970, and \$307 million will be needed during fiscal years 1971 to 1974. Moreover, we are now told that the existing rescue system will not be phased out; and, consequently, the anticipated savings will not be realized.

Thus we find the cost, instead of being \$36.5 million for 12 rescue units, or an average of \$3 million each, has now been projected to \$463 million for six units, or an average of \$77 million each.

This is an increase of 26 times the original estimate, and even this estimate may be revised higher as the result of a reexamination of the contract as initiated last year after the General Accounting Office had intervened.

Our experience with the multibillion-dollar escalation in the cost of the F-111, or "McNamara's folly" as it has been labeled, is well known, and this is another example of manner in which Secretary McNamara misled the Congress and the American taxpayers as to the true costs of our defense programs.

The Comptroller General in his report to the Congress No. B-167325, dated February 20, 1970, reviews this program in more detail, and I ask unanimous consent that a brief summary of that report be printed in the RECORD.

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

EVALUATION NEEDED OF COST-EFFECTIVENESS OF FOUR MORE DEEP SUBMERGENCE RESCUE VEHICLES BEFORE PURCHASE BY THE NAVY B-167325

WHY THE REVIEW WAS MADE

The General Accounting Office (GAO) is reviewing the Navy's management of its Deep Submergence Rescue Vehicle (DSRV) program which has had significant cost overruns and delays in development. Two DSRVs have been purchased by the Navy. This report covers the cost of, and the estimated effectiveness to be derived from, four additional DSRVs the Navy intends to buy. Other aspects of the program are still under review.

The DSRV is a 35-ton submersible designed for rescue of personnel from a disabled submarine. When needed, the DSRV would be transported by aircraft to a seaport near the disaster and carried to the site by a supporting ship or submarine. The DSRV would then shuttle between the disabled submarine and the supporting craft, rescuing a maximum of 24 survivors each trip.

FINDINGS AND CONCLUSIONS

The estimated cost of this rescue system has grown from \$36.5 million for 12 DSRVs to \$463 million for six DSRVs.

In February 1964 the Navy estimated that a rescue system including 12 DSRVs could be developed in 4 years. The estimated cost for developing and 1 year of operation was \$36.5 million. Further, introduction of the DSRV system was to result in a savings of \$37.2 million by permitting a phaseout of an existing rescue system.

The Navy estimated in 1969 that obtaining a rescue system of six DSRVs would take a total of 10 years (1964 to 1974) and would cost about \$463 million. Of this cost, about \$125 million has already been allocated, \$31 million has been requested for fiscal year 1970, and \$307 million will be needed during fiscal years 1971 to 1974. Moreover, the

existing rescue system will not be phased out; and, consequently, the anticipated savings will not be realized.

Navy officials estimate that about \$200 million of the \$307 million applies to the four additional DSRVs. Annual operating cost, after fiscal year 1974, for the four is estimated at over \$17 million.

GAO findings further indicate that submarine disasters where rescue is possible are rare.

Since such disasters are infrequent—there have been only two since 1928—and since two DSRVs apparently would provide sufficient rescue capability for any one disaster, the four additional DSRVs would only provide backup capability. In most cases, this backup probably could be provided by other systems currently in use or being developed by the Navy. (See p. 17.)

RECOMMENDATIONS OR SUGGESTIONS

GAO proposed that the Secretary of Defense evaluate the cost of purchasing and operating the four additional DSRVs versus their estimated usefulness. GAO also suggested that a prompt decision would be valuable since a determination that the DSRVs were not needed would halt further expenditures.

AGENCY ACTIONS AND UNRESOLVED ISSUES

The Navy replied that the Chief of Naval Operations had directed on April 29, 1969, that a study of the needed number of DSRVs begin on a priority basis. The Navy also stated that construction of the four additional DSRVs would not be undertaken until and unless their usefulness had been shown to justify their cost.

The Navy began its study on December 15, 1969—almost 8 months after it was directed. Because of the untimeliness of the Navy's action, GAO recommends that the Secretary of Defense take steps to ensure that the Navy conducts a meaningful study promptly to provide a suitable comparison of the additional DSRVs' probable usefulness to their cost.

MATTERS FOR CONSIDERATION BY THE CONGRESS

This report is being submitted to the Congress because of its expressed interest in the procurement of major systems and the reduction of unwarranted defense expenditures. The Navy currently plans to submit its requirement for additional DSRVs in its budget request for fiscal year 1971.

PRIVACY AND ARMY DATA BANKS: CONSTITUTIONAL RIGHTS AND MILITARY WRONGS

Mr. ERVIN. Mr. President, last month, as part of the Constitutional Rights Subcommittee study of privacy, we addressed inquiries to the Army Department and other agencies asking about the amount and kinds of personal information they have on people, where it comes from, whether or not it is in computers, who uses it, and if the individual has a chance to review and reply to it.

Our purpose in doing this is to determine whether or not Federal data banks are being developed in accordance with respect for constitutional standards of privacy and due process of law for the individual citizen. Another purpose is to help Congress ascertain the need for comprehensive legislation to govern all data banks the Government operates on individuals.

I have received a reply to our inquiry from the Army Department which provides a remarkable demonstration of the need not only of new laws but for a new

agency to regulate data banks and protect individual privacy and constitutional rights where Government records are concerned.

In response to many complaints, we asked the Secretary of the Army particularly to explain reports of information filed at Fort Holabird on the personalities, the political, economic, and social beliefs on the lawful community activities of American citizens. We asked him also to describe in detail the collection and storage of intelligence and other investigative data on private individuals at the Investigative Records Repository and at other Army data centers. In addition, we asked for citations and copies of the statutory and administrative authority on which he relies for this data collection.

The Army Department, in a partial response to my letter, has corroborated the complaints received by Congress. According to their letter, the Army Intelligence Command maintained, and, indeed, still does maintain, information on civilians. In one location alone, the Army Investigative Records Repository, 7 million files are kept on former and present members of the Army, civilian employees, and contractor personnel. These relate principally to security, loyalty, and criminal investigations. However, beyond saying that use of these files is limited by regulation to specifically authorized executive agencies and that no computerization has occurred or is planned, no further light is shed on the overall purpose and management of these files. Nor are any statutes and regulations cited. I hope this information will be forthcoming in the final reply.

The Army Intelligence Command keeps still other files on individuals. These they justify under their missions relating to the collection of information that may be needed by civilian planners and Army commanders in the event Federal troops are directed to act by the President. These activities by the Army were increased reportedly after the Detroit disturbance in 1967.

In furtherance of this nonmilitary mission, the Army stockpiled an amazing arsenal of weapons. First, in the best tradition of military precision, efficiency, and economy, the Army Intelligence officials admittedly set up a computer data bank with information about "potential incidents and individuals involved in potential civil disturbance incidents." They confess that they thought this would be useful in "predicting trends and possible reactions."

Another weapon they developed was a list which included the names and descriptions of individuals who might be involved in civil disturbance situations.

The business of the Army in such situations is to know about the conditions of highways, bridges, and facilities. It is not to predict trends and reactions by keeping track of the thoughts and actions of Americans exercising first amendment freedoms.

If ever there were a case of military overkill, this is it.

Regardless of the imaginary military objective, the chief casualty of this overkill is the Constitution of the United

States, which every military officer and every appointed official has taken an oath to defend.

It is to the lasting credit of Secretary of the Army Resor and General Counsel Robert Jordan that after the inherent dangers to constitutional liberties in this program were pointed out to them, some immediate action was initiated.

Mr. Jordan reports that the identification list has been withdrawn and destroyed, and one computer data bank has been discontinued. He states that no computer data bank is now being maintained for storing such information about civilian politics, and that directives provide that no such system can be initiated without the approval of the Chief of Staff and the Secretary of the Army.

While the Army's response is commendable, it raises more questions than it answers, and it leaves a great many of the old questions unanswered.

Since I view this as an interim response to the subcommittee's inquiry, I shall await with interest the Army's final and comprehensive reply to our questions.

We should like to know then when and how that particular computer data bank was discontinued and whether that information is duplicated in other Army files and microfilms. The essential factor here was not necessarily the computerization of the files, but the fact of the Army surveillance of citizens. We should still like to know about other files and data banks on civilian politics maintained in the Pentagon and elsewhere about the country under the authority of the Army intelligence groups.

We should like to know how many copies of the identification list were issued and how frequently? In addition, we still require copies of directives and regulations governing the current information collected and stored under the new policy for civil disturbance as well as for other purposes at Fort Holabird and elsewhere by the Army.

I have informed the Secretary of the Army of our continued interest in receiving the answers to our questions and in receiving a copy of the new directive concerning establishment of new computerized data systems. I hope this marks the beginning of a trend and that more directives will be forthcoming concerning access to review and use of the old information they already have on hand.

Mr. President, although I have little, if anything, in common with the attitudes and views of some of the persons who are probably in the Army files, the very existence of such unconstitutional surveillance by the Army is, I believe, destructive of our form of government.

The Army Department states that it "has long been pressing to have civilian governmental agencies meet needs of intelligence." Obviously, and perhaps fortunately, someone in those agencies is vetoing the idea.

If the President of the United States determines that new forms of intelligence gathering activities are necessary to enforce the laws, let him so inform the

Congress, and let Congress assign the responsibilities to an appropriate civilian agency.

I suggest the Army regroup and redefine their strategic objectives, lower their sights, and reidentify their enemy. Under our Constitution that enemy is not the American citizen.

I ask unanimous consent that the subcommittee's inquiry of January 22, 1970, the February 25, 1970, reply from the General Counsel of the Army and my letter of February 27 be printed at this point in the RECORD.

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

JANUARY 22, 1970.

HON. STANLEY R. RESOR,
Secretary of the Army,
Washington, D.C.

DEAR MR. SECRETARY: In connection with our study of computers, privacy and constitutional rights, the Constitutional Rights Subcommittee is conducting a survey of the development and maintenance of data banks by Federal departments and agencies.

One of our purposes is to determine whether or not such data systems are being developed in accordance with constitutional standards of privacy and due process of law for the individual citizens involved. Another purpose is to help Congress ascertain the need for comprehensive legislation to govern all computerized data banks on individuals.

Our attention has been particularly directed to reports of the development and expansion of data banks at Fort Holabird, containing information on the personalities, on the political, economic, and social beliefs and on the lawful community activities of American citizens.

To assist the Subcommittee in its study, we should appreciate your explaining for us: (1) the present situation concerning collection and storage of Army intelligence and other investigative data on private individuals, particularly at the Investigative Records Repository, but also at other data centers operated by the Army; and (2) future plans for expanding and further computerizing the present system.

Specifically, we should receive responses to the following questions:

1. Under what statutory and administrative authority was the Investigative Records Repository established, and for what purpose? What is the relationship of this activity to the responsibilities of the Armed Forces? Please supply copies of pertinent statutes, regulations and memoranda.

2. Is all military intelligence data on individuals filed in this center? Is it computerized?

3. How many subject individuals are presently recorded in the system at the Records Center?

4. What categories of information about individuals are contained in this data bank? Are there any published or unpublished regulations or instructions governing the type of information appropriate for the files, how it is to be gathered, and how its accuracy is to be determined? If so, please supply copies.

5. Are there plans to expand the scope of these files in number and subject matter? If so, how would this specifically alter the existing data system?

6. Is the subject individual, or his representative, allowed to review the data on record about him, to supplement his file and to explain or rebut material he considers inaccurate?

7. What provisions are made deleting material found to be inaccurate or inappropriate, either spontaneously by the Army or on motion of the individual concerned?

8. What limitations are placed on access to the file or to information contained in it? What security procedures or devices are employed to prevent unauthorized access to the data file or improper use of the information? Who specifically has access to this data? For what reasons and on what authority is access granted?

9. What other agencies have access to these files? For what purposes? Under what restrictions?

10. Is a record maintained of the details of inspection or use of the file or data on an individual?

11. How is this information collected and by whom? Is it collected by investigators or from third parties? Is it solicited from the individual himself, or is it collected from other records?

12. Do you have published or unpublished regulations or guidelines concerning use and availability of these files? If so, please supply copies.

13. Do you have published or unpublished regulations or guidelines concerning the gathering, screening and accuracy of data in these files? If so, please supply copies.

14. To what extent are these files computerized? What are your plans for computerizing further?

15. The Subcommittee is interested in learning the truth about current reports that the Army plans to connect its intelligence teletype reporting system to a computerized data bank at the Investigative Records Repository. If so, what are your plans for safeguarding the accuracy of the data collected and its relevance to the area of your responsibility?

16. What other data banks are maintained or supported by the Department of the Army on private citizens? To the extent possible, please supply for each of these the information requested for the Fort Holabird data banks.

Enclosed is a *Congressional Record* excerpt describing the scope of the Subcommittee's interest in the government's use of data banks on individuals.

Your assistance in our study is deeply appreciated.

With all kind wishes, I am,
Sincerely yours,

SAM J. ERVIN, Jr.,
Chairman.

FEBRUARY 25, 1970.

HON. SAM J. ERVIN, Jr.,
Chairman, Subcommittee on Constitutional Rights, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter concerning development and expansion of data banks at Fort Holabird, which we believe may be related to an article in the *Washington Monthly* entitled "CONUS Intelligence: The Army Watching Civilian Politics" by former Army Captain Christopher Pyle.

The allegations made by Mr. Pyle were viewed with great concern by both the civilian and the military leadership of the Army. Both have always, over the generations, been keenly sensitive to the longstanding American tradition separating the military from involvement in domestic politics, and both are constantly alert to ensure that Army actions as well as policies are in keeping with the traditional limitations upon our armed forces. Ever since the unfortunate necessity arose, several years ago, for military forces to be prepared for civil disturbance operations when directed by the President, there has been a special sensitivity to the immediacy of this problem.

Our continuing goal has been to maintain suitable limits to Army intelligence involvement in the civilian sector, and toward this end our policies and practices have been un-

dergoing periodic examination. The main charge of the article, and indeed its title, hold that the Army deliberately seeks the opposite, by widespread aggressive, covert collection of intelligence about people who "might make trouble for the Army." This charge is false. The Army's domestic intelligence activity has been to a small degree in the civil sector, but only to focus upon civil disorder, and the Army has long been pressing to have civilian governmental agencies meet even these intelligence needs.

The military security functions of the Army in the United States are conducted by the U.S. Army Intelligence Command, Fort Holabird, Maryland. This Command reports directly to the Chief of Staff of the Army and is closely supervised for him by the Assistant Chief of Staff for Intelligence. The Command employs seven subordinate organizations, military intelligence groups, located throughout the United States in support of its military security functions. These groups, employing approximately 1000 agents, support the principal missions assigned to the Intelligence Command by the Department of the Army.

The principal activity of the U.S. Army Intelligence Command is to conduct security investigations to determine whether uniformed members of the Army, civilian employees and contractors' employees should be granted access to classified information. This activity and allied activity relating to security matters account for 94% of the time of Intelligence Command field personnel, and will consume a higher percentage in the future because of reduction in civil disturbance activities.

To avoid duplication of effort and to give investigators the benefit of prior work, a central filing system of Army investigations is necessary. The U.S. Army Investigative Records Repository, run by the Intelligence Command, has approximately 7 million files relating principally to security, loyalty or criminal investigations of former and present members of the Army, civilian employees and contractor personnel. When security or criminal investigations are completed the entire report is forwarded to the Records Repository at Fort Holabird for filing. The use of these files is limited by Regulation to specifically authorized Executive Branch agencies. No computer has been installed in the Investigative Records Repository; none has been or is planned to be installed since the cost in manpower and time to convert the Repository files to a computer bank would be prohibitive. The Repository does have an automatic retriever system for some of the files; these files, placed in boxes, can be mechanically retrieved on a trolley system in order to save time in searching for files.

In order that investigative efforts in the security field would not be duplicated, Secretary of Defense McNamara directed on 27 May 1965 that a central index of all security investigations conducted by Department of Defense agencies be established. Accordingly, the Defense Central Index of Investigations was established at Fort Holabird. Data included in this index is limited only to the identification of an individual, the type of investigation conducted, date of completion, and the location of the investigation (for example, Army investigations are filed in the Investigative Records Repository). The data is placed on manually key punched cards which are then alphabetically filed. A sample card is attached. At present, these cards must be manually searched. A plan to install a computer at the Central Index has been approved. Information on the key punched cards will be placed in the computer; the purpose of this computer will be to rapidly identify and indicate the location of files needed in security investigations. The computer will contain only the information

shown on the sample card, which does not reflect the existence of any personal information of any kind, derogatory or otherwise. The present system and the planned computer are not and will not be tied in with any form of computer data banks. There is no plan to use the Central Index in any other fashion.

The U.S. Army Intelligence Command also has missions relating to the collection of information that may be needed by civilian planners and Army commanders in the event Federal troops are directed to act by the President. As you know, the Army has certain obligations under the Constitution and the laws to act at the direction of the President to deal with civil disturbances beyond the capability of local and state authorities to control. Army intelligence activities in the field of civil disturbances are directed primarily at ascertaining information needed to prepare appropriate levels of alert for military forces and needed by military commanders if they are directed to act. This limited field of interest removes from legitimate concern of the Army minor forms of disturbances and lawful activities not likely to lead to major disturbance involving use of Federal resources.

Intelligence personnel obtain this limited civil disturbance-related information primarily from the FBI, it is reported usually by teletype to the U.S. Army Intelligence Command. The Director of Investigations, U.S. Army Intelligence Command, is responsible for collecting the information, storing it, and forwarding it, as necessary, to appropriate officials in the Department of Defense. The teletype is not linked to any computer, nor has there ever been a plan to do this.

The collection of civil disturbance-related information by the Army increased after the disturbance in Detroit in 1967. However, the Intelligence Command was not and has never been reinforced with additional personnel to accomplish the civil disturbance missions assigned to them at that time. Since this was a new area for the Army, an appropriate level of action necessary to accomplish the Army's mission had to be evolved. This area has been a subject of constant attention and refinement in order to narrow the Army's actions to only those which are absolutely necessary. There have been some activities which have been undertaken in the civil disturbance field which, after review, have been determined to be beyond the Army's mission requirements. For example, the Intelligence Command published from 14 May 1968 to 24 February 1969, an identification list which included the names and descriptions of individuals who might be involved in civil disturbance situations. All copies of the identification list have been ordered withdrawn and destroyed. The Army's present policy is that reporting of civil disturbance information is limited to incidents which may be beyond the capability of local and state authorities to control and may require the deployment of Federal troops.

In the past, the Director of Investigations at the Intelligence Command has operated a computer data bank for storage and retrieval of civil disturbance information. This data bank, which included information about potential incidents and individuals involved in potential civil disturbance incidents, was thought, useful in that it permitted the rapid retrieval of related information for predicting trends and possible reactions. The civil disturbance data bank was discontinued since, after the study, it was determined that the data bank was not required to support potential Army civil disturbance missions.

Thus the Army does not currently maintain, and has ordered the destruction of, the identification list referred to above. No computer data bank of civil disturbance information is being maintained, and directives provide that no such system can be initiated without the approval of the Chief of Staff and the Secretary of the Army.

I hope that the information set out above will satisfy your concerns.

Sincerely,

ROBERT E. JORDAN III,
General Counsel.

U.S. SENATE,
SUBCOMMITTEE ON
CONSTITUTIONAL RIGHTS,

Washington, D.C., February 27, 1970.

HON. STANLEY R. RESOR,
Secretary of the Army,
The Pentagon,
Washington, D.C.

DEAR MR. SECRETARY: Thank you for your interim reply to the Subcommittee's inquiry of January 22, 1970, in connection with our study of privacy and data systems.

I wish to commend you and the General Counsel of the Army for the prompt and effective action you have taken to reduce the Army Department's involvement in domestic intelligence work. I was gratified to learn that you have discontinued the computer data bank which was maintained on "potential incidents and individuals involved in potential civil disturbance incidents." Furthermore, the fact that you have ordered the withdrawal and destruction of a list of people who might be involved in civil disturbances is also laudable, and will be reassuring to those in Congress concerned with constitutional rights.

My inquiry of January 22, as you know, was not limited to information collected for possible civil disturbances, nor was it confined to files kept at Fort Holabird.

Since Mr. Jordan's letter deals only with one Fort Holabird computer data bank, and does not refer to other similar civil disturbance data banks and data systems not necessarily computerized, which are reportedly maintained by the Army in the Pentagon and in the various Intelligence Groups, I hope that your final reply will complete your responses to our inquiry, especially to Question 16.

His letter does not, furthermore, deal with the questions raised concerning the information which he indicates is currently being maintained under the new policies. In addition, it does not answer our inquiries concerning other information kept on file about civilians.

With your final reply, I hope that you will comply with the Subcommittee's request for the pertinent regulations, statutes, directives, and other authority to which Mr. Jordan generally refers.

Since Mr. Jordan states that the Army has urged that other civilian agencies take over the task of domestic intelligence, we should be interested in knowing what specific recommendations have been made in this matter.

While the Department is to be commended for the prompt action to remedy, at least partially, this unjustified interference by the Army into domestic political activities, this does not explain how the Army was permitted to engage in such activities in the first place. The preservation of our civil liberties cannot depend on the lucky discovery of illegal programs. Clearly, in our government of laws, no such activity should be undertaken secretly, as was this, nor without clear statutory and constitutional authorization from Congress.

With all kind wishes, I am,

Sincerely yours,

SAM J. ERVIN, JR.
Chairman.

LET'S TELL HEW'S BIRDS WHERE TO GO

Mr. ERVIN. Mr. President, in the Goldsboro News-Argus of Wednesday, February 25, 1970, there is published an

editorial entitled "Let's Tell HEW's Birds Where To Go."

Goldsboro, N.C., has desegregated its school system until in most cases black students outnumber whites in previously all-white schools. Instead of receiving the commendation of HEW for desegregating its school in a fashion of which both races can be proud, the Goldsboro Board of Education has been notified by HEW that it has failed to desegregate its school in a manner satisfactory to HEW and that future applications for Federal funds will be deferred.

The editorial suggests in strong language that the people of Goldsboro and the South ought to stop kissing what it calls "bureaucratic backsides" and "tell HEW to take its Federal funds, its letters, its threats, and its enforcement personnel and go to hell."

In so doing, the editorial reveals the ever-expanding resentment of North Carolina and other States of the South over the discriminatory and its tyrannical actions of Federal courts and HEW in denying schoolchildren and parents of the South their freedoms, and their fair share of Federal funds.

Mr. President, I ask unanimous consent to have this editorial printed in the RECORD.

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

LET'S TELL HEW'S BIRDS WHERE TO GO

The Department of Health, Education and Welfare notified the Goldsboro Board of Education yesterday that it had failed to voluntarily desegregate the public schools, that future applications for public funds would be deferred and that "enforcement proceedings" would be followed.

In response to this arbitrary action by HEW in light of the sincere and successful effort made here to totally desegregate the schools, we offer this suggestion:

Let's tell HEW to take its federal funds, its letters, its threats and its "enforcement" personnel and go to hell.

Goldsboro not only has desegregated its school system until in most cases black students outnumber whites in previously all-white schools, but it has done so in a spirit that should have earned the commendation of HEW.

Instead, we have had to kiss their bureaucratic backsides and "yassah" and shuffle to every tune whistled by anybody with a D.C. license plate.

If the administration in Washington will permit such unfair and arrogantly arbitrary action by a bureau that CAN be controlled by the President and by Congress, then the American people should boot out every public official in the next election.

We have listened too long to the political grandstanding of officials who tell us one thing at election time and then, because they don't know how or are afraid to fight hard enough, come back with the mealy-mouthed apology that they "can't do anything about it".

We refuse to believe that HEW is all-powerful, that it can flaunt the law and the public interest and be answerable to neither the Congress nor the President of the United States.

We can in the best of faith stand before any reasonable judge and before history and say that we have desegregated our public school system and in a fashion of which both races can be proud.

Let us stand up to HEW in this hour and say we will have no more of its bureaucratic bullwhipping. Human dignity and our pride

as a free people will not permit us to crawl to the trough for federal funds that are legally and morally ours.

We should ignore any further bureaucratic mandates, forward all future correspondence unopened to our congressmen and the President, and refuse to accede to any "enforcement procedure" growing out of the HEW threats.

HEW "guidelines" are not laws—they are bureaucratic regulations that in some instances, as in busing, have actually required school districts to violate laws passed by Congress.

Only by standing our ground now are we going to make our elected officials in Washington face up to making a clearcut choice between serving the people of this once-free country or having the people subservient to a bureaucratic dictatorship.

Every member of Congress and the President himself should camp in the office of HEW until its paranoid racist stormtroopers are sent packing and reason and sanity have been restored.

Neither the President nor any member of Congress—regardless of party—should have the gall to face their constituents again until this has been done.

If we yield to unreason, then we simply are playing the game of the unreasonable.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REPORT OF ACTUAL PROCUREMENT RECEIPTS FOR MEDICAL STOCKPILE OF CIVIL DEFENSE EMERGENCY SUPPLIES AND EQUIPMENT PURPOSES

A letter from the Secretary of Health, Education, and Welfare, reporting, pursuant to law actual procurement receipts for medical stockpile of civil defense emergency supplies and equipment purposes, for the quarter ended December 31, 1969; to the Committee on Armed Services.

REPORT OF SMALL BUSINESS ADMINISTRATION

A letter from the Administrator, Small Business Administration, reporting, pursuant to law, the amount and date of disbursement of funds by small business investment companies, dated February 27, 1970; to the Committee on Banking and Currency.

REPORT OF U.S. INFORMATION AGENCY

A letter from the Director, U.S. Information Agency, transmitting, pursuant to law, a report of the Agency for the period January 1 to June 30, 1969 (with an accompanying report); to the Committee on Foreign Relations.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the examination of financial statements of the Disabled American Veterans National Headquarters for the year ended December 31, 1968, and the Life Membership Fund and Service Foundation for the year ended June 30, 1969, dated March 2, 1970 (with an accompanying report); to the Committee on Government Operations.

REPORT OF SECRETARY OF THE INTERIOR ON WASTE TREATMENT FACILITIES

A letter from the Secretary of the Interior, transmitting, pursuant to law, a report listing waste treatment facilities approved for prefinancing and prefinanced projects that are actually underway or completed (with an accompanying report); to the Committee on Public Works.

PETITION

A petition was laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A concurrent resolution of the House of Representatives of the State of Louisiana, to the Committee on the Judiciary:

"HOUSE CONCURRENT RESOLUTION No. 12

"A concurrent resolution memorializing the Congress of the United States with respect to calling of a convention for the purposes of proposing an amendment to the Constitution of the United States to provide that no person by reason of race, color, creed, or national origin be refused admission to or be excluded from any public school or be compelled to attend a designated public school

"Whereas, each and every state of this nation is presently experiencing grave problems in the administration of their public educational systems; and

"Whereas, one area of deep concern to the various school boards or districts in the various states is the present uncertainty associated with integration of the public schools and the means or methods utilized to achieve that end; and

"Whereas, there is a great need for the adoption of an amendment to the United States Constitution clarifying the above described problem area by uniformly authorizing the school boards throughout the nation to administer their school systems on the basis of "freedom of choice plans."

"Therefore, be it resolved by the House of Representatives of the Legislature of Louisiana, the Senate thereof concurring that, in conformity with Article V of the Constitution of the United States, application is hereby made by the Legislature of Louisiana to the Congress of the United States to call a convention for the purpose proposing an amendment to the Constitution of the United States which shall read substantially as follows:

"Article —. No person shall by reason of race, color, creed or national origin be refused admission to or be excluded from any public school or be compelled to attend a designated public school."

"Be it further resolved that if Congress shall have proposed an amendment to the Constitution to achieve substantially the same objective as provided herein prior to January 1, 1974, then application for a convention shall no longer be of any force and effect.

"Be it further resolved that duly attested copies of this Concurrent Resolution shall be transmitted immediately by the Secretary of State of Louisiana to the President and Secretary of the Senate of the Congress of the United States, to the Speaker and Clerk of the House of Representatives of the Congress of the United States, to the Secretary of State of the United States and to each member of the Congress from the State of Louisiana.

"JOHN S. GARRETT,

"Speaker of the House of Representatives.

"C. C. AYCOCK,

"Lieutenant Governor and President of the Senate.

"A true copy:

"WADE O. MARTIN, JR.,

"Secretary of State."

REPORTS OF A COMMITTEE

The following reports of a committee were submitted:

By Mr. McGEE, from the Committee on Post Office and Civil Service, without amendment:

S. 3396. A bill to make certain technical changes in provisions of law relating to the postal service (Rept. No. 91-711);

S. 3397. A bill to permit the acceptance of checks and nonpostal money orders in payment for postal charges and services; authorize the Postmaster General to relieve postmasters and accountable officers for losses incurred by postal personnel when accepting checks or nonpostal money orders in full compliance with postal regulations; and to provide penalties for presenting bad checks and bad nonpostal money orders in payment for postal charges and services (Rept. No. 91-712); and

H.R. 13008. An act to improve position classification systems within the executive branch, and for other purposes (Rept. No. 91-713).

BILLS INTRODUCED

Bills were introduced, read the first time and, by unanimous consent, the second time, and referred as follows:

By Mr. BYRD of West Virginia:

S. 3527. A bill to prevent the reduction or loss of veterans' compensation and pension benefits as the result of increases in social security or railroad retirement benefits attributable solely to the general benefit increase provided by the Social Security Amendments of 1969; to the Committee on Finance.

By Mr. McINTYRE:

S. 3528. A bill to amend the Small Business Act to encourage the development and utilization of new and improved methods of waste disposal and pollution control; to assist small business concerns to effect conversions required to meet Federal or State pollution control standards; and for other purposes; to the Committee on Banking and Currency.

(The remarks of Mr. McINTYRE when he introduced the bill appear later in the RECORD under the appropriate heading.)

S. 3528—INTRODUCTION OF A BILL TO HELP SMALL BUSINESS MEET THE CRISIS OF ENVIRONMENTAL CONTAMINATION

Mr. McINTYRE. Mr. President, I introduce, for appropriate reference, a bill designed to aid small businesses which are forced to modify their operations to conform to new environmental standards. The bill would also aid small businesses which specialize in the development of new methods of reducing pollution or otherwise improve our environment or which voluntarily adopt such methods. It requires the Small Business Administration to consider environmental aspects in its regular loan programs.

One of the great paradoxes of our times is the fact that the scientific and technological advances which have made our lives easier and more pleasant and lifted us into a position of world leadership have created their own problems in the form of environmental contamination.

Much legislation has been enacted in recent years in a belated effort to cope with these problems, for example, the Water Pollution Control Act, the Clean Air Act, and the Solid Waste Disposal Act. Nevertheless, the deterioration of the environment continues and many experts have predicted that, if it remains unchecked, our society is doomed.

As a result of these dire predictions there has been a tremendous upsurge of interest in environmental problems on the part of Government at all levels, as well as the general public. Environmental problems and proposals accounted for a large proportion of the President's state of the Union message, and he has since sent up a special message on the subject. I commend the President for his interest and efforts.

I would also like to compliment the distinguished Senator from Maine, Senator MUSKIE, for his long and effective work in this field, and also the distinguished Senator from West Virginia, Senator RANDOLPH. They have laid the foundation for whatever else may be accomplished in the future.

In view of the the heightened interest in environmental problems there will undoubtedly be greatly expanded activity and probably new legislation in this area during the years immediately ahead. It appears that there will also be increased emphasis on enforcement in terms of requiring firms contributing to pollution to make necessary changes in plant and equipment.

I welcome and endorse these developments, which are long overdue. However, I think we should be aware of the differential impact which anti-pollution-enforcement action may have on small businesses as opposed to large corporations. Obviously the relative financial burden of plant and equipment changes required to comply with antipollution standards are much greater for small-scale manufacturers than for large-scale manufacturers.

For this reason I am afraid that many small business concerns will not have the funds available to meet new standards that will be set as new enforcement programs gain momentum. Conformance with new standards must be very strict if the desired results are to be obtained. I am certain that there will be many concerns whose very existence will be threatened if they do not have the means to meet these new standards and requirements. This bill would make loans available to help meet these needs.

Another section of this bill would require SBA in its regular loan programs to give priority to those applications which will further the development or utilization of new methods of reducing pollution. The bill also requires SBA to consider the environmental aspects of all loans made.

A vast new area requiring the utmost in ingenuity and resourcefulness lies ahead in this fight to protect and save our environment. This is the type of challenge in which small business has in the past excelled.

I think that it is very necessary that these new programs for loans to small business to meet these new demands should be set up as quickly as possible. I am confident that the President will recommend sufficient funding, and the Congress will appropriate whatever funds are necessary to accomplish this worthwhile purpose.

In conclusion, Mr. President, I would like to reemphasize the fact that my purpose in offering this bill is not to

exempt small businesses from antipollution requirements, but rather to encourage and assist them in complying with such requirements. I hope that my colleagues will join me in this endeavor.

Mr. President, I ask unanimous consent at this point to have the bill to aid small businesses meet the crisis of environmental contamination printed 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. 3528) to amend the Small Business Act to encourage the development and utilization of new and improved methods of waste disposal and pollution control; to assist small business concerns to effect conversions required to meet Federal or State pollution control standards; and for other purposes, introduced by Mr. McINTYRE, was received, read twice by its title, referred to the Committee on Banking and Currency, and ordered to be printed in the RECORD, as follows:

S. 3528

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7(a) of the Small Business Act is amended—

(1) by striking "paragraph (5)" in paragraph (4) and inserting "paragraphs (5) and (8)"; and

(2) by adding at the end thereof of a new paragraph as follows:

"(8) The Administrator shall require that any equipment, facilities, or machinery to be acquired with assistance under this subsection be so designed as to prevent, control, or minimize environmental pollution which might otherwise result therefrom in accordance with such standards as the Administrator shall prescribe after consultation with the Secretary of Health, Education, and Welfare. In the processing of applications for financial assistance under this subsection the Administrator shall give priority to those applications which he determines will further the development or utilization of new and improved methods of waste disposal or pollution control. The rate of interest for the Administration's share of any loan with respect to which such determination has been made shall not exceed the average annual interest rate on all interest-bearing obligations of the United States then forming part of the public debt as computed at the end of the fiscal year next preceding the date of the loan and adjusted to the nearest one-eighth of 1 per centum, plus one-quarter of 1 per centum per annum."

Sec. 2 (a) Section 7(b) of the Small Business Act is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; and "; and

(2) by adding after paragraph (5) a new paragraph as follows:

"(6) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration determines to be necessary or appropriate to assist any small business concern in effecting additions to or alterations in its plant, facilities, or methods of operation to meet requirements for the prevention or control of environmental pollution imposed by Federal or State law, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this paragraph."

(b) The third sentence of Section 7(b) of such Act is amended by striking "or (5)" and inserting ", (5), or (6)".

(c) Section 4(c) (1) of such Act is amended by inserting "7(b) (6)," after "7(b) (5)."

THE PRESIDENT'S ENVIRONMENTAL CONTROL BILLS—ADDITIONAL COSPONSORS OF BILLS

Mr. MOSS. Mr. President, I am today joining Senator SCOTT as a cosponsor of President Nixon's seven environmental control bills.

My colleagues know that since I first arrived here, I have supported, usually as a cosponsor, every single piece of major legislation to protect and rehabilitate our environment. I am very proud to have helped lay this legislative foundation for our war on pollution. But the war has just begun and I intend to continue my support of progressive environmental control bills.

President Nixon is a welcome convert to our cause. For the President, more than anyone else, can focus national attention on the pollution crisis and he, as Chief Executive, can direct the energies of government toward solving the problem. This he has begun to do and must continue to do.

I am particularly pleased that the President's bills expand the authority of the Secretary of the Interior to set national standards for both interstate and intrastate waters; increase Federal power to enforce water pollution standards; authorize the Secretary of Health, Education, and Welfare to regulate fuel composition and additives; replace the Secretary of Health, Education, and Welfare's power simply to recommend, with power, to set national air quality standards; give the Secretary of Health, Education, and Welfare power to regulate pollution emissions if a State fails to do so; and fund completely the land and water conservation fund.

For these progressive recommendations the President is to be applauded and supported. I am glad to see that President Nixon realizes that strong Federal powers are needed if we are ever to defuse the pollution time bomb.

I was disappointed that the President did not include in his recommendation my proposal for a Department of Natural Resources and Environment. This Department would draw together all Federal programs which affect the quality of our environment. I have been advocating such a reorganization of our governmental structure for 5 years and I am still hopeful that President Nixon will endorse it.

In supporting the President's bills, I am, of course, reserving the right to push further and faster.

In his budget request, President Nixon has not matched his state of the Union rhetoric. The amounts requested for pollution control are wholly inadequate. We must spend more than the President recommends just to stay even with the pollution onslaught, and still more is needed to reverse the tide.

I will support the President and vote to enact these necessary measures. But the proposed legislation will do little good unless the funds are appropriated to carry it out. This is where the test will come.

I ask unanimous consent that, at the next printing, my name be added as a cosponsor of bills S. 3466 through S. 3472.

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

DELETION AND ADDITION OF COSPONSORS

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Wisconsin (Mr. PROXMIER) I ask unanimous consent that, at the next printing, the names of the Senator from Ohio (Mr. YOUNG) and the Senator from California (Mr. CRANSTON) be deleted as cosponsors of S. 3508, to create a Federal Mortgage Marketing Corporation, and for other purposes, and instead, to add their names as cosponsors of S. 3503, the Middle Income Mortgage Credit Act. In addition, I ask unanimous consent to add the name of the Senator from New Mexico (Mr. MONTOYA) as a cosponsor of S. 3503, the Middle Income Mortgage Credit Act.

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

SENATE RESOLUTION 362—RESOLUTION SUBMITTED AND AGREED TO RELATIVE TO THE DEATH OF REPRESENTATIVE JAMES B. UTT OF CALIFORNIA

Mr. MURPHY submitted a resolution (S. Res. 362) relative to the death of Representative JAMES B. UTT, of California, which was considered and agreed to.

(The remarks of Mr. MURPHY when he submitted the resolution appear later in the RECORD under the appropriate heading.)

VOTING RIGHTS ACT AMENDMENTS OF 1969—AMENDMENTS

AMENDMENTS NOS. 533 THROUGH 543

Mr. ERVIN. Mr. President, I submit 11 amendments which I intend to propose to the Scott-Hart substitute for the administration's voting rights bill—amendment No. 519—and ask unanimous consent that these amendments be printed in the RECORD, for the information of the Senate, and that they also be printed and lie on the table until called up for action.

The PRESIDING OFFICER. Without objection, the amendments will be received, and will be printed, and will lie on the table, as requested by the Senator from North Carolina, and, without objection, the amendments will be printed in the RECORD.

The texts of the 11 amendments are as follows:

AMENDMENT No. 533

Add a new section, appropriately numbered, as follows:

"Sec. —. That section 4(a) of the Voting Rights Act of 1965 is amended by striking out 'United States District Court for the District of Columbia' and inserting in lieu thereof 'the United States District Court in which the capital of such State is located, or the United States District Court in which such political subdivision is located'.

"(b) Section 5 of such Act is amended by

striking out 'United States District Court for the District of Columbia' and inserting in lieu thereof 'the United States District Court in which the capital of such State is located, or the United States District Court in which such political subdivision is located'.

AMENDMENT No. 534

Add a new section, appropriately numbered, as follows:

"Sec. —. That section 4(b) of the Voting Rights Act of 1965 is amended by striking 'November 1, 1964' wherever it appears and substituting therefor 'November 1, 1968', and by striking 'November 1964' and substituting therefor 'November 1968'."

AMENDMENT No. 535

Add a new section, appropriately numbered, as follows:

"Sec. —. That section 4(b) of the Voting Rights Act of 1965 is amended by striking 'November 1, 1964' wherever it appears and substituting therefor 'November 1, 1968', and by striking ', or that less than 50 per centum of such persons voted in the presidential election of November 1964'."

AMENDMENT No. 536

Add a new section, appropriately numbered, as follows:

"Sec. —. That section 4(b) of the Voting Rights Act of 1965 is amended to read as follows:

"(b) The provisions of subsection (a) shall apply in any State or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1 of the year in which the last most recent presidential election was held, any test or device, and with respect to which (2) the Director of the Census determines that less than 50 per centum of the persons of voting age residing therein were registered on November 1 of such year, or that less than 50 per centum of such persons voted in the presidential election of such year."

AMENDMENT No. 537

Add a new section, appropriately numbered, as follows:

"Sec. —. That section 4(b) of the Voting Rights Act of 1965 is amended to read as follows:

"(b) The provisions of subsection (a) shall apply in any State or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1 of the year in which the last most recent presidential election was held, any test or device, and with respect to which (2) the Director of the Census determines that less than 50 per centum of the persons of voting age residing therein were registered on November 1 of such year."

AMENDMENT No. 538

Add a new section, appropriately numbered, as follows:

"Sec. —. That section 4 of the Voting Rights Act of 1965 is amended by adding at the end thereof the following new subsection:

"(f) After July 1, 1969, no State or political subdivision with respect to which determinations have been made under subsection (b) of this section, shall continue to be subject to the prohibitions of subsection (a) of this section if the Director of the Census determines that at least 50 per centum of the persons of voting age residing therein were registered on November 1, 1968, and that at least 50 per centum of such persons voted in the Presidential election of November 1968."

AMENDMENT No. 539

Add a new section, appropriately numbered, as follows:

"Sec. —. That section 4(b) of the

Voting Rights Act of 1965 is amended by adding at the end of the first paragraph thereof the following sentence: 'For the purposes of the determination required by this subsection the Director of the Census shall exclude the following: 1) All members of the Armed Forces on active duty stationed at a military installation who are bona fide residents of another State or political subdivision, 2) All persons confined in mental institutions who are disqualified under State law or who are bona fide residents of another State or political subdivision, 3) all persons confined in prisons who are disqualified to vote under State law or who are bona fide residents of another state or political subdivision, 4) All students who are bona fide residents of another State or political subdivision, and 5) all other persons disqualified to vote under State law, located in such State or political subdivision thereof.'

AMENDMENT No. 540

Add a new section, appropriately numbered, as follows:

"Sec. —. That section 5 of the Voting Rights Act of 1965 (42 U.S.C. 1973c) is amended to read as follows:

"Sec. 5. Whenever a State or political subdivision with respect to which the prohibitions set forth in section 4(a) are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1964, such State or subdivision shall submit such qualification, prerequisite, standard, practice, or procedure through the chief legal officer or other appropriate official of such State or subdivision to the Attorney General which qualification, prerequisite, standard, practice, or procedure may be enforced after 60 days from such submission. If the Attorney General believes that such qualification, prerequisite, standard, practice, or procedure has the purpose and will have the effect of denying or abridging the right to vote on account of race or color, he may institute an action in the United States District Court in which the capital of such State is located, or the United States District Court in which such political subdivision is located for a restraining order or a preliminary or permanent injunction, or such other order as he deems appropriate, and unless and until the court enters such judgment, such qualification prerequisite, standard, practice, or procedure may be enforced. Any action under this section shall be held and determined by a court of three judges in accordance with the provisions under section 2284 of title 28 of the United States Code and any appeal shall lie to the Supreme Court."

AMENDMENT No. 541

On page 3, beginning with line 7, strike out down through line 8, on page 4.

AMENDMENT No. 542

On page 7, line 24, strike out the end quotation marks. On page 7, immediately following line 24, insert the following new subsection (f):

"(f) No person shall be required or requested to furnish any information regarding how he voted or whether he voted for any candidate or on any issue. All information which shows, or which may tend to show, how any person or group of persons voted with respect to any candidate or issue shall be kept confidential by the Bureau of the Census, and shall not be disclosed to the Commission, the Department of Justice, the Civil Rights Commission, or to any other person or agency, whether State, federal, or private. All such data, whether or not in computer usable form, shall be destroyed one year from the date upon which the Commission submits its final report."

AMENDMENT No. 543

On page 6, line 12, strike "by race, national origin, and income groups", and insert in lieu thereof, "by age, educational level, and income".

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, March 2, 1970, he presented to the President of the United States the following enrolled bills:

S. 2523. An act to amend the Community Mental Health Centers Act to extend and improve the program of assistance under that Act for community mental health centers and facilities for the treatment of alcoholics and narcotic addicts, to establish programs for mental health of children, and for other purposes; and

S. 2809. An act to amend the Public Health Service Act so as to extend for an additional period the authority to make formula grants to schools of public health, project grants for graduate training in public health and traineeships for professional public health personnel.

NOTICE OF HEARINGS ON VOTING AGE

Mr. BAYH. Mr. President, I am pleased to announce that the Subcommittee on Constitutional Amendments will be holding 2 additional days of hearings on proposed amendments to lower the voting age. The hearings will be held March 9 and March 10, beginning at 9:30 a.m. in room 318, the caucus room. The hearings will consider the general question of whether the franchise should be extended to persons 18 to 21 years of age as well as the question of whether the voting age might be lowered by statute rather than by constitutional amendment. Inquiries should be directed to the staff of the subcommittee, extension 3018.

NOTICE OF HEARING ON NOMINATION OF FRANK WILLE

Mr. SPARKMAN. Mr. President, I wish to announce that the Committee on Banking and Currency will hold a hearing on Thursday, March 5, 1970, on the nomination of Frank Wille, of New York, to be a member of the Board of Directors of the Federal Deposit Insurance Corporation.

The hearing will commence at 9:30 a.m. in room 5302, New Senate Office Building.

ADDITIONAL STATEMENTS OF SENATORS

THE ABM SYSTEM

Mr. McGEE. Mr. President, the Washington Sunday Star of March 1, in its lead editorial, has called on the Senate to make reality the basis for our forthcoming consideration of the expanded ABM system. After capsuling the major arguments for and against the plan proposed last week, the Star comes down on the side of what it obviously feels is prudence, noting that the United States "cannot afford the luxury of wishful thinking."

Certainly, Mr. President, all of us do wish that mankind could escape the

madness of the arms race, and hope and pray that the SALT talks will help us achieve this goal. Then we could find more humanitarian use for the billions of dollars an effective ABM system would cost. But the affairs of men and of nations have not yet reached that point, as the Star points out in its editorial of March 1.

I ask unanimous consent that it be printed in the RECORD.

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

THE PROSPECT FOR AN EXPANDED SAFEGUARD

Last year, after a long and acrimonious debate, the Senate voted to begin deployment of an antiballistic missile system. The measure, which had the urgent backing of the Nixon administration, was spared when a move to block deployment fell short of the required majority. The vote was 50-50.

Last week, the battle was joined again when the administration proposed an expansion of the ABM system: A third Safeguard complex to protect one more Minuteman missile site, and the acquisition of land and preliminary work for five additional Safeguard locations.

When the administration gained its narrow victory last year, it was generally assumed that opposition to the ABM was at its zenith, that once the ice was broken future requests to expand the system toward its ultimate goal of 12 sites would meet with diminishing resistance. That judgment, it now appears, was premature. The administration proposal is in serious trouble.

With the advantage of hindsight, it is clear why this opposition—that apparently took the administration by surprise—has come on so strong. First, this is an election year. Second, the administrations request for site acquisition is, in effect, a request to move into the second stage of Safeguard deployment: The "area defense" stage aimed at protection of population centers against any nuclear attack other than an all-out Russian strike. It is a move that would, to some extent, commit the United States to proceed with the full, 12-site Safeguard program, now estimated to cost a total of \$11.9 billion over the next seven or eight years.

Neither of these new factors should be written off as unworthy or inconsequential. Survival is the basic drive of life; political survival is the basic drive of the incumbent politician. Voluntary self-sacrifice prompted by idealism is as strikingly rare among politicians as among the rest of the human race.

It can be safely predicted that those senators who are up for re-election will be strongly pressured by their reading of the will of the voters. What is not so predictable is which way this pressure will swing the pendulum.

The first results that must logically be attributed to political realities cannot, however, be counted as happy tidings for the ABM expanders. Last year, Senators Henry M. Jackson and John O. Pastore played key roles in escorting the ABM measure safely through the legislative minefield. This time around Jackson and Pastore both face re-election—and their ardor has obviously cooled. Jackson has expressed serious reservations about moving into site acquisition. Pastore has indicated a disapproval of the entire proposal. If either of these key votes does, in fact, move into the anti column, the effect can be expected to cut much deeper into the pro-ABM total than the single vote involved.

But the political currents, strong as they are, will not show on the surface of the debate that is about to get under way. Instead, the public will be subjected to a repetition of the basic arguments that were advanced during the first round. There will also be a

new debating point or two growing out of the request for the five additional sites designed to move the program into the first stages of defense against a future Chinese missile threat.

These arguments are based, for the most part, on a hopeful assessment of Russian intentions.

The Soviets, it is said, are serious about the Strategic Arms Limitation Talks due to resume in April. To plunge ahead now with an expansion of the ABM system would raise doubts about United States intentions and materially reduce the chances of productive negotiations.

Besides, the argument goes, a nuclear attack by either side is unthinkable. Both Russia and the United States are now possessed of such awesome strength that each could absorb a full-scale attack and still deliver a response that would virtually wipe the other nation off the earth.

As for the area defense, the tactic is to dismiss the Chinese threat as an insubstantial nightmare. China has the bomb—true enough. But the delivery system is non-existent. So why worry now about something that may not be possible for years to come?

Put these considerations together, and—in the eyes of the ABM opponents—you have a persuasive argument for postponing further deployment.

Why not, the opposition reasons, make that first peaceful gesture of restraint that may encourage the Soviets to respond in kind and to break the escalating spiral of the arms race? Why not, in this era of intense competition for every available dollar, find some other, more humanitarian, use for the \$920 million requested for ABM expansion during the coming fiscal year?

These are substantial questions, requiring effective answers. And answers have been provided by the administration—and by the Soviets.

Russia has given the most persuasive rebuttal to the argument that an expanded Safeguard will wreck the SALT talks. This week, after three years of silence on their ABM system, the Russian defense minister, in an article in Pravda, announced that an effective, operational antimissile system is in place around Moscow. It is clear enough that the Soviets do not believe their existing system is a bar to arms talks. Why then should United States plans for a system that will not be completed until 1977 or 1978 constitute such a bar?

There is a strong appeal to the argument that both sides are capable of such massive overkill that the development of more weapons—offensive or defensive—is a waste of time and money. After all, if nothing can change the balance of terror, we can safely relax behind our present shield of second-strike capability.

The difficulty with this line of reasoning is that it is based on misreading of the facts. There is no permanent balance or assured second-strike capability. New technological developments—specifically including the development of an ABM system—constantly threaten the retaliatory capability.

The unfortunate points to a vast effort by the Soviets to destroy the credibility of the United States' second-strike capability. They have deployed their own ABM system. They have pressed ahead with the development of a multiple-warhead weapon, the SS9, capable of delivering some 10 times the megatonnage of the Minuteman. By the end of 1970, the Soviets will have surpassed the United States in numbers of ICBMs: 1,290 to our 1,054. In 1965, the Soviets had 107 missiles ready for launch aboard submarines; we had 464. Today the figure is 656 of ours to 300 of theirs—and the Russians are continuing to build missile-launching subs at a vastly greater rate than we. Furthermore, as the Soviets approach absolute nuclear parity with the United States, they show no signs

of slowing the momentum of their stock-piling.

The China threat, which is the primary reason for the expansion to an area defense, will not be diminished by belittling or ignoring it. The Chinese have the hydrogen bomb. According to the latest published intelligence, they can be expected to test an ICBM delivery system within the year.

All of this does not add up to evidence that any enemy is about to launch a nuclear strike against us. But it does mean that the United States cannot afford the luxury of wishful thinking about Soviet intentions. Nuclear arms are not limited to use in war. They can be persuasive diplomatic weapons as well. If Russia ever achieves the ability to destroy the United States' second-strike capability, if they succeed in making other nations believe that they have done it, or if they convince themselves, that they have a clearcut superiority, the world will have become a different and even more deadly place than it is today.

The yearning that all men share for an escape from the essential madness of the nuclear arms race may, in the near future, be fulfilled by substantial progress in the SALT talks. Meanwhile, reality dictates that the administration proposal to expand the Safeguard system should be approved.

PRESIDENT NIXON ATTENDS DINNER IN NEW YORK CITY HONORING THE PRESIDENT OF FRANCE

Mr. BAKER. Mr. President, I have just learned that the President of the United States, in an unprecedented gesture, has flown to New York City to attend a dinner in honor of the President of the Republic of France. I am delighted by this gesture and proud as a citizen that the President has made it.

Each of us as individuals has had differences with others. Often these differences are of the most vital importance. But I have found in my own experience that rudeness and a departure from common civility rarely advance one's cause.

I am vigorously opposed to the sale by France to Libya of jet aircraft. I feel that the sale of these aircraft will upset a precarious balance in the Middle East and mark the beginning of a major escalation of the arms buildup in that strife-torn area. It is clear that the administration of President Nixon is equally opposed to this transaction.

But opposition to a particular policy does not require street tactics and discourtesy on the part of anyone. The alliance between the people of France and the people of the United States spans more than two centuries of friendship. That President Pompidou and his lovely wife have been discourteously greeted by a very small minority of American citizens is a matter of great regret to me. I am delighted that President Nixon has gone to New York to make it entirely clear to President and Madame Pompidou that those things in common between the two nations greatly outweigh those things at issue. The action of the President will, I am confident, accurately represent the overwhelming majority of American citizens.

WATER POLLUTION

Mr. YOUNG of Ohio. Mr. President, Federal Water Pollution Control Admin-

istration officials report that during 1969 more than 15 million fish died in our Great Lakes due to water pollution. In many areas it is hazardous to health to swim in Lake Erie, and our once lovely white beaches are blackened with waste, scum, and dead fish. Industrial and municipal wastes caused nearly 90 percent of these fatalities, most of that huge total in Lake Erie. Water pollution control is urgent. I voted to increase Federal funds for clean water to \$1 billion. Surely, this expenditure must be given top priority instead of squandering additional billions to the \$115 billion already spent waging an undeclared, immoral war of aggression in Vietnam.

JOB OPPORTUNITIES FOR MINORITY GROUPS

Mr. SCOTT. Mr. President, I am pleased to offer for the RECORD the text of an address delivered on February 9 by the Honorable James D. Hodgson, the Under Secretary of Labor, to the National Urban League Conference in Atlanta, Ga.

It is an excellent account of the remarkable achievement of the Department of Labor, with the strongest backing from the President of the United States, in widening the job opportunities for members of hitherto disadvantaged minority groups.

The Department's approach, under the direction and personal example of Secretary George P. Shultz, Undersecretary Hodgson, and Assistant Secretary Arthur Fletcher, is characteristic of the Nixon administration's stress on performance rather than rhetoric in handling all public problems. As Mr. Hodgson expressed it in Atlanta:

Two features mark our approach to today's problems. The first is moderation in style. No florid rhetoric, no illusory promises, no claim of heroics. The second is to point our efforts toward results. Not to accentuate and polarize differences, not to promote confrontations, but rather to get things done—useful, constructive things.

I commend the Under Secretary's address to my colleagues and to all readers of the CONGRESSIONAL RECORD.

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

REMARKS OF UNDER SECRETARY OF LABOR J. D. HODGSON

The Twentieth Century has been called a troubled and turbulent time. History and fate have not treated it with kindness. The first 50 years of the Century was marked by two unthinkable World Wars, by a lengthy economic trauma and by a demented endeavor to exterminate an entire people. It was in short, a time of great tragedy.

If indeed the first half of the Century was a time of tragedy, the second half has been a time of irony.

Irony flourishes in disequilibrium. And of disequilibrium we've had our share in the last 20 years. Our Nation moves forward on many fronts: economic, technological, sociological and spiritual. The rate of forward motion on each varies.

During these last two decades the brilliant flame of progress has burned brightly in two spheres—economy and technology. In the realm of economics the so-called developed countries have raced ahead to world record heights of living standards. The United States has led that race—led it to a point where a

curious term—affluence—has become widely accepted as descriptive of our condition.

Meanwhile the domain of technology has produced equal or perhaps even greater wonders. Time and space have succumbed to the onslaught of physical science. The moon is no longer a lover's inspiration, but a scientist's laboratory.

But while economics and technology have ascended to peaks of achievement, the condition of man continues to resist similar advancement. This, then is the irony—the spectacle of man, seemingly able to achieve all goals save those most intimately affecting himself.

To some this irony is so baffling, so frustrating, that in the argot of the day, they "cop out." They take one of two roads. Some avidly embrace simplistic solutions—solutions long on emotional comfort but short on realization. Others retreat to some neutral and numb ground of non-involvement.

Public officials cannot take either roads if they are to remain responsible to their office. They are charged with the task of analyzing and acting to solve the Nation's problems. And today our Nation's most difficult problems are "people problems." Anyone who deals with the people problems of our time knows one thing is necessary for their solution. That thing is "change." So today, public administrators find themselves engaged as "engineers of change." To devise the direction and chart the course of change—that is the challenge.

In every "people problem" area today, two key questions face the public administrator. Questions of "what" and "how"—*what* needs to be done and *how* it shall be done. These questions involve decisions of both style and substance. In fact, to achieve cohesive policy, style and substance must interrelate.

Today the Administration in Washington is carving out an approach to the people problems of our time. It is framing answers to these "what" and "how" questions.

The Administration's answer to the "what" question in dealing with problems of minorities is now becoming readily apparent. A critical and urgent need is for economic advancement. It has been decided that the way to achieve such advancement is through *more* jobs for minorities, through *better* jobs for minorities and through *more* and *better* training for *more* and *better* jobs.

Now what about the answer to the "how" question—how are these things to be done. Here, too, the answer is emerging. First, new industries like construction must be opened up to minority employment. Second, concentration must be placed on those programs that provide *real* jobs, not "iffy" job promises. In manpower programs, job placement rather than social reform is stressed. Upgrading, in addition to hiring, becomes a priority goal, and training programs are specially tailored to job market needs. The thrust of it all has a clear focus—to provide minorities with *more income* through *more* and *better* jobs.

At the same time operating changes are made to support these objectives. Past vague references to affirmative action are converted into concrete and specific requirements. Responsibility for achievement and enforcement is clarified and fixed. Coordination of administration and enforcement is nailed down. And a quantum leap forward is provided in staff and dollars to do the job.

So much for how the problem will be attacked.

It is now appropriate to ask "under what approach or style will all this proceed?" Here is where an attempt is made to learn from past mistakes. Credibility, Federal Government credibility, as we will know, had been a king sized problem on this subject. In retrospect it is not hard to understand "why".

During the sixties a cycle kept repeating itself. *Step One* of the cycle involved a well intentioned but extravagant set of Government promises. This was followed by *Step*

Two which saw emerge an understandable but excessive expectation of results.

Then *Step Three* produced a sense of frustration and often a hostile reaction to low levels of achievement. Finally the result was *Step Four*, a disenchantment and questioning of the intentions and good will of everyone involved in the whole process.

Now in reflection it is easy to see how such an unfortunate pattern could ensue. Once the first step occurred, the cycle became practically inevitable.

In the last decade this pattern marked many spheres of our national life. As the new Administration took office, this fact was recognized. And so, when President Nixon rose to the rostrum on the steps of the National Capitol on Inauguration Day, he urged the Nation to consider a change of style. "Let's lower our voices," he counselled. He told his Cabinet, "Let *performance*, not promises be this Administration's objective." And in his press conference just a few days ago he again resisted the temptation to indulge in rhetorical flourishes, suggesting only he would be satisfied to be judged solely by results achieved.

This second half of the Twentieth Century has been a very verbal age. We are bombarded from all sides by the printed and spoken word. The media has an omnivorous and unsatiated appetite. So in some ways, particularly in contentious matters of the moment, such a muted approach as that proposed by the President can be misunderstood.

But some understanding is becoming evident. People have become aware that volume of rhetoric bears little relation to seriousness of commitment. Nor does passion or promise mean capacity for performance. But though the public now understands this, it is not yet equally aware of something else—that absence of promise *does not mean* absence of concern.

So perhaps here is where we are at this point in time. On one hand widespread recognition exists that the methods of the past have failed the Nation. On the other full confidence does not yet exist that the new methods will be any better.

It is in full recognition of this understandable questioning—particularly questioning by the Nation's minorities—that I talk to you here this morning.

Now let's go back to early last January. The President had just announced George Shultz as the next Secretary of Labor. Before taking office Mr. Shultz made a speech before the Industrial Relations Research Association in Chicago. Here, even before sitting in the Secretary's chair, he pinpointed the issue designated for top priority during his tenure in office. That issue—*race and employment*. What was top priority at the outset remained top priority through the year and is top priority today.

Let's review what has happened during this past year. Here I'll try to be as objective as I can. But remember, the Labor Department and its activity are our baby. And no one can really describe one's own baby objectively.

In our first days in office the Secretary laid down two guidelines for the entire Department. First our approach was to be *professional*. Second, all our activities were to be, as he put it, "*results oriented*." In other words—get things done and get them done well.

The instant a new Administration takes office there are about a thousand things to do at once. But considering the Secretary's announced priority, one of the first things we in the Labor Department turned our attention to was a Department organization bearing the name "Office of Federal Contract Compliance." I say "organization" but that is stretching the term. Examine with me what we found—a group of but twelve staff members plus a handful of clerical people.

And no Director. In fact there had been no Director for almost a year.

The group was isolated from all other operating units of the Department, in no position to call upon other Department resources. No effective coordination existed with other related Government agencies. The group had attempted to make a start toward greater minority hiring in the construction industry in the City of Philadelphia. But they had been rebuffed and had given up. They were good people—this group—but they were lonely, leaderless and dispirited. It was obvious that the first thing needed was strong leadership.

As you know, I came to the Nation's Capitol from the West. Out there I had been hearing some impressive things about a former Los Angeles Ram tackle from the State of Washington. "In improving race relations" I was told, "Art Fletcher goes about getting things done as though he were leading Gale Sayers around end." Just the man for this job we decided. So Art became Assistant Secretary in charge of all the Department's enforcement activities. And we placed the OFCC unit under his supervision.

Now we needed a Director for the unit. Someone to carry the ball for big yardage after Art had opened the holes. To make sure we could attract a top man, we elevated the Director job to the top of the Federal pay scale. Then in San Francisco we found the man we wanted—Boston University trained John Wiks, a specialist in community relations.

Next we had to do something about staff. For the big job ahead we needed a bigger staff. So in spite of budget austerity, in spite of drastic Congressionally imposed personnel limitations, we sent to Congress, with the complete support of the President, a request to double the staff by June of this year; and to add 20 more next year, thus almost tripling the size of the group.

Now it was time to respond to Secretary Shultz admonition that we were to be "results oriented." As most of the Nation knows, results had been sparse in placing minorities in several sectors of the construction industry. Our predecessors had made a try in Philadelphia without success. But Philadelphia still had a problem. So we waded in.

The story of our Philadelphia Plan has been too well and too often told elsewhere for me to recount it here. Its critics have tried to kill the Plan with multiple attacks. They have failed.

They failed because President Nixon gave it his personal endorsement. They failed because Secretary Shultz fought a four-day battle to save it in Congress. They failed because he and Art Fletcher performed the incredible feat of getting the Senate to completely reverse itself. But you know that story.

The importance of the Philadelphia Plan lies not only in its intrinsic merit but in its demonstration of a seriousness of purpose. In its reflection of a determination to get results.

Look what has happened. In the last month two of our major cities—Chicago and Pittsburgh—have devised their own plans. Similar effort is going forward in a number of other cities.

Today in Washington the Labor Department is making an important announcement that I will share with you. Today we are announcing a nationwide program for expanding minority employment in the construction industry in 19 major American cities. Together with this announcement we are publishing a "Model Agreement" for cities to use in attempting to work out, with our help, their own plans. Thus we have now set a nationwide objective and a specific framework for achieving that objective.

But construction is only one industry. So last week the OFCC published something known as "Order Number Four."

Order Number Four covers Federal contractors in all industries except construction. It is a document of great length and weighty content. It will have great impact in filling the many gaps that still exist in equal employment opportunity among Government contractors.

For the first time the Order specifies that contractors must establish *goals and timetables* to remedy deficiencies in minority employment. Now the entire concept of such employment goals has, as you know, been the focus of stormy controversy. Some revile them as "quotas". Bitter arguments ensue as to just what they are—goals, quotas, standards, targets or what. All this controversy has obscured a fundamental point.

These goals apply to *business establishments*. In business the standard practice for achieving and measuring things is to set goals. Its simply a business-like way of assuring the job gets done. Or, if it doesn't get done, to find out why.

So Order Four merely incorporates a standard business tool to help solve a major national problem. Many businesses on their own have been doing exactly this for years. Most Plans-for-Progress companies, for instance, have found this device to be useful, reasonable and effective. So we've nailed it down in the new Order.

About here I should acknowledge that OFCC is only one unit of the Department of Labor that focuses on improving the economic position of minorities. We view our manpower unit as a major contributor to this objective. Our manpower training and service programs are heavily concentrated on helping the disadvantaged. In a time of Federal budget austerity, we increased the budget of this unit this year by fifteen percent and by another twelve percent next year. And as you can imagine, increasing Federal budgets in these times is like swimming upstream. But nonetheless this is what we're doing. In the construction industry alone this year we devoted \$20,000,000 to training the disadvantaged, and the figure will rise next year. In the so-called JOBS program alone we have allocated the spending of more than \$300 million next year. And as many of you know, nearly 90% of the people who get jobs under this program are minorities.

Last month we made an announcement—a Nationwide program negotiated by the Department with the Plumbers Union and the National Constructors Association. This is a *journeyman* training program for minorities. It constitutes the first major National breakthrough in a high paying job area where minority participation has been exceedingly sparse.

For the last several minutes I've been talking about a lot of things we're doing or planning to do at the Department of Labor. I suppose I've sounded like I'm pleased about these things. And I am.

But don't misunderstand me. I'm not here to say that at last we've worked out some magic solution to the problems of unequal employment opportunity. Nor do I think that will automatically produce new high levels of income for all the Nation's minorities.

What I've been saying adds up to this. First, we clearly recognize the existence of a major problem area. Second, we view the problem to be of such magnitude that we have given it top priority. Third, we have committed extensive talent, resources and energy to attacking it—certainly more than ever before. And finally, we're willing to be judged by the results of our efforts.

Today I get special pleasure in discussing this subject before a meeting of the Urban League. That pleasure springs from knowledge of the special, almost unique, role of the League.

You will recall that I have dwelt on two features that mark our approach to today's problems. The first is *moderation in style*. No florid rhetoric, no illusory promises, no

claim of heroics. The second is to point our efforts toward results. Not to accentuate and polarize differences, not to promote confrontations but rather to get things done—useful, constructive things.

Now as I reflect on these approaches I become aware they are in marked harmony with approaches used by the League over the years. The League has always been a "doing" organization. The League maintains referral and placement units. The League provides special counselling and community services. And now the League operates dozens of training programs, many like LEAP and Outreach under the Department of Labor sponsorship. So the League itself is highly "results-oriented."

Through the years we have seen the League employ a reasoned, rather than a raucous, voice. It has been strong and firm in its views where others were merely strident. The League knows that furor and frenzy can never replace constructive action if real gains are to be won.

So I take special pleasure and extend special thanks to you for letting me discuss these critical matters with you.

This morning I have often spoken in terms of "problems." There is now occurring a switch in phrasing deserving a high favor. People increasingly refer to "problems" as "opportunities." I like this. It has a positive ring to it. A problem is something you try to get out of the way. An opportunity is something you work at with zeal and inspiration. Certainly that is how the matters I have discussed here this morning should be attacked. I believe that is the way the Urban League is attacking their opportunities. I know that is the basis for our approach to them in the Labor Department. As this concept spreads among men of good will everywhere, the end result can only be real progress. And real progress has become a tangible and achievable objective. Let's all work at it.

Thank you.

LAOS AND VIETNAM

Mr. McGEE. Mr. President, Columnist Richard Wilson, writing in today's Washington Evening Star, details what he calls "an important distinction" between U.S. military operations in Laos and in Vietnam. That difference or distinction is that in Laos, while we are training, equipping, and advising a native army, and probably giving it air support, there is no direct involvement of American ground troops in combat. Indeed, the President has assured Congress that none will be sent to fight in Laos without its consent.

This is an important distinction which does not preclude our Government's acting to protect the integrity of Laos or other threatened nations in Southeast Asia.

The point which Mr. Wilson drives home is that this policy is not news—certainly not to the critics in Washington. It is under attack, however, because, to some, it appears to be a good time to undermine the President's policy and forge a new policy of total disengagement.

I ask unanimous consent that Richard Wilson's column, entitled "Criticism Unlikely To Sway Nixon on Laos Policy," be printed in the RECORD.

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

CRITICISM UNLIKELY TO SWAY NIXON ON LAOS POLICY

(By Richard Wilson)

Another Vietnam in Laos? Well, hardly yet. There is an important distinction between

the military operations of the Nixon administration in Laos and those in Vietnam.

If this distinction is not recognized then it may as well be said that the President of the United States is now and hereafter precluded from effectively supporting the nations of Southeast Asia in resisting external aggression.

This is evidently the basic objective of those in the United States Senate who now are accusing the President of escalating the war in Laos into another Vietnam.

This distinction between Vietnam and Laos, however, is a working demonstration of the kind of policy called for by the Nixon Doctrine in lieu of the massive direct intervention of U.S. forces in Vietnam. In Laos we are training, equipping and advising a clandestine native army and probably giving it air support without the direct involvement in combat of American ground troops. That pattern undoubtedly would be followed in Thailand if the northern insurgency required it. It is the developing pattern also in Vietnam, where it is called Vietnamization.

Implicit in the gathering storm over Laos is the basic question of the President's using these methods to preserve the political integrity of independent governments in Laos, Vietnam, Cambodia and Thailand.

This is well understood in Congress. The Senate Foreign Relations Committee knows what the Nixon administration is doing in Laos and why it is doing it. The present outburst arises mainly because a few newspapermen have observed first hand what the Foreign Relations Committee has known all along was being done in Laos.

A visitor to Vientiane as long ago as three years could readily see that the United States was giving military support to the government of Laos. There was no secret about it. The CIA was there. American military advisers were there. They also traveled back and forth between the American airfields in the north of Thailand to Vientiane.

Investigators for the Foreign Relations Committee have been supplied with a great deal of information by State Department personnel on the operation in Laos, so much in fact that there has been concern at the White House over the leakage of military information that would be of benefit to the North Vietnamese invaders.

Then why all the fuss? It arises because this is considered the right time to undermine and reverse President Nixon's policy in Southeast Asia. It finally is coming to be realized that Nixon meant it when he said the United States was not about to "bug out" and that he intended to preserve the independent political integrity of the nations of Southeast Asia.

That is not sufficient for the peace group in the Senate. Some of them had thought that Nixon was moving toward a total pull-out, regardless of the consequences, as a political necessity. Now they see that this is not so and they observe that in both Thailand and Laos the President has committed the United States to military support of existing governments.

Nixon also is being accused of duplicity and of failing to hold the confidence of the American public by being little franker about his objectives than President Johnson.

This only means that in a brief time President Nixon will take to the air waves again to give a fuller explanation, but no fuller than is already known to the Foreign Relations Committee, about what we are doing in Laos, why it is in support of an independent government, why it protects our troops in Vietnam and making it doubly clear, as Secretary of Defense Laird already has, that he has no intention of committing ground combat forces.

If the President does not do this he will merely play into the hands of those who say he is hiding his actions in the same deceptive way as Johnson.

It is of even more substance that if the

President is driven off his policy in Laos then he will have retreated from the aims and objectives he has so often stated in the Nixon Doctrine.

But there is no present prospect that Nixon will be driven off his policy, certainly as long as the North Vietnamese infiltration through Laos to Vietnam continues.

One other aspect of this matter is important. The President has assured Congress he will not send ground troops to fight in Laos without Congressional consent. If this assurance is to be taken literally the President has gone a step farther than his predecessors in recognizing congressional participation in decisions on future military interventions.

ON CRIME IN THE STREETS

Mr. SYMINGTON. Mr. President, in a recent interview, an outstanding trial lawyer, Edward Bennett Williams, addressed himself to the problem of crime and the avenues for solution.

Although his remarks were made in the context of the critical situation in the District of Columbia, they are pertinent and applicable to cities across the Nation and of interest to all those concerned with this national problem.

Mr. Williams states that our system is broken down in three places.

First, he asserts that the greatest deterrent to crime in the street is a visible policeman and calls for more and better paid policemen. For the quality and quantity needed, a massive Federal subsidy to the cities is required.

Second, if punishment is to work as a deterrent, it does not have to be severe but it does have to be swift. When those apprehended do get to court, the average lawyer can keep his clients at liberty for from 18 months to 2 years before a final decision.

The whole criminal justice system must be speeded up if it is going to work effectively. This too will take more funds.

Finally, the prisons, instead of rehabilitating, have become breeding grounds for crime.

I ask unanimous consent that the complete article appearing in the Washington Post of February 28 be printed at this point in the RECORD.

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

[From the Washington Post, Feb. 28, 1970]

AN ATTORNEY'S VIEW OF THE DISTRICT OF COLUMBIA CRIME SITUATION

(NOTE.—Trial attorney Edward Bennett Williams, one of a number of civic leaders who have recently met together in search of new solutions to the problem of crime in Washington, was asked about some of his conclusions in a recent interview with Joseph McCaffrey of WMAL-TV. Following are excerpts from the interview.)

McCaffrey. As an attorney and a trial attorney, are you concerned about what we all refer to rather too liberally, perhaps, as the rising crime rate?

Williams. I am terribly concerned about it. I'm terribly concerned about it at the national level, and I'm terribly concerned about it here in our city. We've been called the crime capital of the world, and I'm afraid it's with some validity. Crime has been spiraling out of control in our city . . .

There are all kinds of crimes, but the crime I think that has bestirred the alarm of our country and the alarm of our city is the kind of crime that's directed against private property, and often attendant with violence to the person. I'm talking about

robberies and muggings and yokings, larcenies and burglaries, which have been on the rise here in Washington and across the country. We have a terrible situation here in the District of Columbia. Last year there were 18,000 plus burglaries. There were 9,000 plus armed robberies, and there were 9,000 larcenies of property over \$50.

And the thing that disturbs me most is that four out of five persons who committed a robbery on the streets of Washington went unapprehended . . .

McCaffrey. All right, now let me yield to you, without any interruption, and as an attorney, tell me what you think should be done to combat current crime rates.

Williams. I think the system has broken down in all three of its divisions. First of all, I think, we desperately need in our city, and I think we should take our city as symbolic of the 30 big cities in the country, we desperately need more policemen. During the Johnson administration there was an authorization for 4,100 policemen. President Nixon said we needed 5,100. I think we need more. I think we need more than 6,000. At the moment we have fewer than 3,500 on the streets. Though they give you a figure of 3,950, but 450 of these are in training. We have lagged terribly in recruiting policemen. The greatest deterrent to crime in the street is a visible policeman. And as long as these kids who are committing these crimes, and they are kids, 75 per cent of them are being committed by kids under 21, as long as the odds are five to one they won't be caught, as long as the odds are 14 to one they won't be caught when they go out and steal property worth \$50 or more, as long as the odds are nine to one they won't be caught when they break into your house, they're going to keep committing these crimes.

McCaffrey. Pretty good odds.

Williams. Well, our talks about the fact that well, their decisions out of the old Warren Court were too liberal, were too soft on the criminal, but I think that this is really not addressing one's attention to the real problem. You wouldn't find one kid who gave one fleeting thought to his constitutional rights or criminal procedures before he went out in the streets to do his crime. They go out on the premise that they aren't going to be caught. And the record shows that they're pretty much right. The odds are overwhelmingly with them that they aren't going to be caught.

So, I say we desperately need more police. The record shows that when Chief Wilson saturated the third district with police in an experiment to see whether he could curb robbery, and burglary, and larceny, he reduced it tremendously. Now we've got to spend the money and saturate the city with police. But that isn't the end of the problem. There's still, I think, an equally bad problem. And it's a problem of which I, as a lawyer, am not proud. I think there has been a terrible breakdown in the criminal justice system of this country.

Now, we've already seen that the criminal justice system, the courts, are irrelevant to a large segment of the crimes that are being committed, because these crimes never get into court. But when they do get into court, a very bad thing takes place. The average lawyer today, if he exploits all the rights of his client, can keep his client at liberty on the street for from 18 months to two years after he commits an armed robbery.

McCaffrey. While they're working to pay him.

Williams. Well, 60 per cent of the people who are committing these crimes aren't able to pay a single dollar. They're indigent. And they're given free counsel, they're given the right to a free appeal, so naturally they all appeal; and the whole system stalks because even after the defendant is brought to trial, which may be several months after he's arrested and indicted, and even after he's con-

victed by a jury, it takes from six to eight to ten months before an opinion comes out of the appellate court affirming or reversing his conviction. And then there is an equal amount of time that is used up while the Supreme Court avenue is explored.

Now, if punishment really is to work, it doesn't have to be severe, but it has to be swift. You know from your experience with your own children, that if one of them deliberately spills the milk at the breakfast table, unless there is a quick meeting of his derriere with the front of your hand, there is not an understanding of the punishment. You can't wait for three days and then administer the punishment. The same thing is true at the level of society, unless punishment is administered swiftly, it does not have a deterrent effect.

So, I think we have to take a new look at our whole criminal justice system and speed it up if it is going to work effectively. We have to eliminate this delay of 18 months between the offense, and I'm giving the system the benefit of the doubt when I say 18 months because it's longer than that in many, many cases—we've got to eliminate that delay.

Third part of the system where there's been a terrible breakdown is in the prison system. Of course, the last thing that you can ever get the legislature to address itself to is the prison problem. It's the last item on national state priority. I can say this to you in all candor, in my 25 years of practicing law, I have met only one person whom I think was benefitted by a term in prison. The one person who was really rehabilitated. Unfortunately the prisons have become a breeding ground for crime. You put young boys in the prisons today and they come out hardened criminals. It's terrible, it's really terrible. The whole prison system needs a tremendous reformation. It's broken down.

So I say the system is broken down in three places. We don't have enough police, we don't pay them enough. We expect so much of them now. We expect our policemen to be professionals, we should treat them like professionals. We expect them to know the law. We expect them to know first-aid. We expect them to be family counsellors. We expect them to be sociologists. We expect them to have the wisdom of Solomon and the patience of Job, the agility of a Jim Brown, and we give them \$150 a week and a gun. We've got to escalate our police force both quantitatively and qualitatively across this country. We can't do it with the money that's available to the cities because the people who can provide the funds from a tax basis are fleeing into the suburbs. The only way it can be done is from a massive subsidy from the federal government to the cities to correct this problem. I think this should be the number one priority in the cities because until we restore order in the cities, there is going to be no progress in education; there's going to be no progress in health; there's going to be no progress in job opportunities, there is going to be no progress in any of those many things that are crying out for attention. We have to restore order. And we have cities out of control. One of them is ours.

LOWERING THE VOTING AGE

Mr. BAYH. Mr. President, the New York Times this morning published an editorial endorsing the constitutional amendment, Senate Joint Resolution 147, that would lower the voting age to 18. The editorial cited the impressive testimony of Dr. S. I. Hayakawa, president of San Francisco State University, in hearings before our subcommittee last month.

I am in complete agreement with the statement of the Times that:

We have become concerned that suffrage for this group of Americans is a matter of simple justice. To grant it would give them a sense that they have indeed a stake in their society and a political voice to protect it. To continue to treat them, instead, as children—although many of them have children of their own—can only deepen an already dangerously widespread sense of alienation.

Mr. President, I ask that the entire editorial be included in the RECORD.

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

YOUTH AND SUFFRAGE

If the case for lowering the voting age rested solely on the most widely repeated argument for it, the cause would not be worth pursuing. Those who are old enough to work, pay taxes and go to war are not necessarily old enough to vote, there being certain differences in the qualifications for the four activities. But there are other reasons for taking such action, and they are cogent enough to have won the support of 68 Senators who now favor amending the Constitution to that end.

The chief one is that the young people presently in the affected age bracket are far better prepared educationally for the voting privilege than the bulk of the nation's voters throughout much of its history. Only a half-century ago fewer than 17 per cent of American youngsters were graduated from high school and fewer than 8 per cent went to college. Today close to 80 per cent are high school graduates and roughly 45 per cent get some form of higher education.

Yet the nation does seem to have qualms about lowering the voting age. The New York Legislature has made a tentative move in that direction, but recent attempts in other states have been easily defeated. Reluctance to give the vote to these young citizens rests mainly on their supposed immaturity, an argument reinforced by highly publicized accounts of students rioting, drug addiction, political lunacy and other such suggestions of instability.

On this aspect of the question, the nation should have been impressed by the testimony of Dr. S. I. Hayakawa, the president of San Francisco State University. Of the 18,000 students at his embattled institution, no more than 1,000 participated in the disorder, and of those arrested, one-half were well over the present voting age. If it is any comfort to fearful conservatives, Georgia has had 18-year-old voting since 1943, and its present Governor is Lester B. Maddox—an argument which we realize could defeat the amendment.

Contrary to our original views, we have become concerned that suffrage for this group of Americans is a matter of simple justice. To grant it would give them a sense that they have indeed a stake in their society and a political voice to protect it. To continue to treat them, instead, as children—although many of them have children of their own—can only deepen an already dangerously widespread sense of alienation.

WITHDRAW OUR ARMED FORCES FROM WEST GERMANY: GIVE TOP PRIORITY TO OUR OWN NEEDS

Mr. YOUNG of Ohio. Mr. President, more than a quarter of a century following the end of World War II, the United States continues to maintain 320,000 troops and nearly 290,000 dependents in Western Europe. The time is long past that our military commanders realize that World War II has ended.

New realities, which should have been faced in the 1960's, must certainly be recognized in 1970. There is no justification whatever for the United States to maintain in Europe any armed forces except liaison officers, some headquarters officers in Belgium and some air force and logistic support in West Germany. Our Government should bring home at least 200,000 ground troops from Europe and an equal number of dependents by September 30 of this year.

We should awaken to the fact that the nations of Western Europe no longer suffer from the economic prostration, military weakness, and political instability that characterized them when their cities and industries were lying in rubble more than a quarter of a century ago. Today, West Germany has become an economic superpower, the third wealthiest nation in the world. The West German mark is one of the world's strongest currencies. International bankers consider it as sound, or more sound, than the American dollar.

Today, more than 220,000 American troops are stationed in West Germany alone. We are spending nearly \$15 billion a year to support our NATO forces. In addition, we are paying 70,000 German nationals one-quarter of a billion dollars of American taxpayers' money each year to provide services for our troops stationed in the West German Republic. This does not include the vast sums spent in Germany by dependents of the American forces.

It is clear that our Secretary of Defense and the generals of our Joint Chiefs of Staff continue to view the world through spectacles of the World War 1945 period, when a weak Western Europe faced a dynamic, expansionist, cynical Soviet Union under Joseph Stalin. Following the death of dictator Stalin, the threat of invasion became more and more remote. President Nixon has emphasized the fact that the era of the "cold war" between our Nation and the Soviet Union no longer exists.

President Nixon recently placed an official seal of finality on that era in American history from 1946 to the death of Stalin when a cold war raged between the dictators of the Kremlin and the United States. At that time the two huge Communist nations on this planet were in accord with each other. During the last few years the Soviet Union has withdrawn from eastern Europe more than five divisions of its armed forces. Most of these soldiers along with other ground forces of the Soviet Union are now stationed along the 4,500-mile common border separating the Soviet Union and Communist China. There has been fighting and bloodshed and the Russians have invaded sections of Mongolia slicing off Chinese territory. The border clashes are becoming more frequent. Possibly a huge scale war is imminent between the huge Communist nations China and the Soviet Union.

President Nixon recently stated, "International Communist unity has been shattered." He said, "the Marxist dream of international communism disintegrated."

Throughout the last 24 years the

United States has girded its military power against international communism. With the recognition that there is no longer even a hint of a monolithic Communist conspiracy to conquer the world, the last vestige of reason for us to maintain armed forces in Western Europe no longer exists. Furthermore, Americans have reason to feel outraged that their President is sending thousands of draftees to fight in Vietnam following basic training of 4 months when seven divisions of highly trained, largely professional career officers and enlisted men are living the good life in West Germany. The officers from captain up to the generals never had it so good. They are living high on the hog with their wives and youngsters, with servants to spare and enjoying their Mercedes automobiles, skiing in Germany and Switzerland, and traveling by air and automobile to the various spas and famed vacation areas in Italy, Spain, and elsewhere. Many of the noncommissioned officers, the backbone of our Army, are living in Western Europe—West Germany, Belgium, and elsewhere—like squawmen with their families. If there were a sudden grave emergency—a sudden invasion on the ground and in the air—one wonders if a sergeant with a wife and five or more children would consider their welfare and safety ahead of his Army duties. If we really need to maintain thousands of fighting men in Europe to protect the United States, then the term of duty should be no longer than 13 months; and no dependents.

The tremendous cost to our taxpayers in maintaining 320,000 men of our Armed Forces in Western Europe and approximately 290,000 dependents and in addition more than 90,000 civilian employees has been increasing year after year. All of this unnecessary expenditure of billions of dollars has resulted in huge balance-of-payments deficits year after year. This has threatened the stability of our dollar.

German landlords, apartment, and homeowners have profited at our expense. German authorities have been guilty of outrageous burdensome charges against Americans and against the U.S. Government for maintaining these forces stationed in Germany to protect that tremendously strong and opulent nation from an invasion from the Soviet Union. The likelihood of this is as chimerical as the alleged claim emanating from the Pentagon of the likelihood of Chinese, dropping atomic war heads on the United States. Yet, Defense Secretary Laird is advocating deployment of ABM missiles against that "threat" at a cost of billions of dollars. For example, in our airlifts and the landing of our Nation's planes with military men and materiel, it is the West German practice to extort a \$20 landing fee, sometimes more, for every American plane landing men of our Armed Forces or supplies for our Armed Forces. We pay tribute to the Germans for protecting a now powerful Nation, the West German Republic.

The nations of Western Europe can certainly provide the necessary troops and air forces to defend themselves. It

is ridiculous to believe that the 280 million people of Western Europe, with tremendous industrial resources and long military experience, are incapable of defending themselves against 240 million Russians. This at a time when the Russians are engaged in sporadic warfare with 800 million Chinese along a 4,500-mile common border separating the Soviet Union from Communist China.

There is no reason for Europe to depend on us. Since the death of Stalin, the Soviet Union is no longer an aggressive threat to our NATO allies. The leaders of the Kremlin during the past 10 years have been intent on raising the standard of living of their own people. The Soviet Union, now a "have" nation, no longer a "have not" nation, is veering toward capitalism. President Nixon recently stated that the cold war between the United States and the Soviet Union had ended.

It may well be that the overwhelming presence of American military power in the past quarter century has foreclosed promising avenues of European development. It has prevented West European countries from developing their own military defense system to the extent they probably would have done otherwise. It has encouraged them to remain encased in the cradle of dependency.

That "monolithic Communist conspiracy," which has served as the excuse for so many of our foreign policy blunders, no longer exists. The Russian-Chinese disputes threaten to explode into full-fledged war. It is well known that Rumania, Yugoslavia, and other Communist nations in eastern Europe are considerably further from Soviet domination than they were 10 or 15 years ago. Very definitely, Hungary, Yugoslavia, and Rumania are not dependent on the Soviet Union nor are they, in fact, satellites of the Soviet Union. They are nationalist Communist countries.

The United States should leave only a strategic reserve in Western Europe. Our massive military presence in Western Europe has become merely foreign aid to the European countries—needless foreign aid costing taxpayers billions of dollars. The nations of Western Europe can unquestionably provide the necessary troops to defend themselves. There is no reason for them to depend on us.

The United States has 656 missiles in Polaris submarines, more than 1,200 ICBM's and some 650 intercontinental bombers. It is this nuclear umbrella that provides the real protection for Europe, not excessive numbers of ground troops.

We must emerge from the dark shadows of the 1940's to the reality of the 1970's, close down our unnecessary military installations and make a sincere effort to solve the challenging crises facing us here at home. This would be a major step toward creating an international climate conducive to peace. At the same time it would offer a new potential for giving top priority to solving the grave problems besetting us in our own country.

SAVE YOUR VISION WEEK

Mr. SPARKMAN. Mr. President, this week of March 1-7 has been proclaimed

by President Nixon as Save Your Vision Week, an observance designed to call public attention to the importance of good vision and proper eye care.

Save Your Vision Week has special significance for Alabama this year. The new school of optometry at the University of Alabama in Birmingham has accepted its first call of students, who will undergo the normal 4 years of graduate school work to earn the doctor of optometry—O.D. degree.

We are very proud of this new facility, which is under the guidance of Henry B. Peters, O.D., Ph. D., Dean, who assumed his duties following several years on the faculty of the University of California at Berkeley in its school of optometry.

With a full complement of students in the next few years, the University of Alabama at Birmingham will be graduating some 40 doctors of optometry a year, to help overcome the serious shortage of these health-care professionals in the Southeastern section of the United States.

Those of us who have been so interested in the development of our scientific and health care complex at the Birmingham campus consider this new school of optometry an excellent addition to the educational program of the university. We are confident that it will rapidly gain a reputation of being one of the best of its kind.

THE CONCENTRATED EMPLOYMENT PROGRAM AND NATIONAL MANPOWER POLICY

Mr. BAYH, Mr. President, hearings on the concentrated employment program were conducted on Friday, February 27, 1970 by the Subcommittee on Employment, Manpower, and Poverty of the Senate Committee on Labor and Public Welfare. I submitted a statement to the subcommittee because of my concern that reassessment of our national man power policy result in delivery systems that are effective and clearly responsive to the special needs of the hard core unemployed. I ask unanimous consent that my statement be printed in the RECORD.

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

STATEMENT OF SENATOR BAYH

I wish to express my interest in the Concentrated Employment Program and my concern for its significance in relation to national manpower policy. I have studied documents related to CEP and reviewed reports written by responsible and concerned people, who have worked long with CEP programs. While I have great hope for the genuine potential of this program, as evidenced by the work and plans of the CEP in my own state—I (we have a Concentrated Employment Program in Gary)—I am puzzled and concerned by a dichotomy which I seem to see between what CEP was intended to be and what CEP has actually become. I am convinced that the CEP must not be considered apart from the total national effort to deal with poverty and the urban crisis.

CEP is intended to strike at the heart of the problems of poverty through employment of the hard core individual; thus, this program is a microcosm of the full scale struggle to solve our nation's poverty crisis. The questions we must ask about the CEP are the

questions we must ask about manpower policy nationally and, indeed, about our whole approach to the poor and their problems.

CEP was created in April 1967, when the Secretary of Labor and the Director of the Office of Economic Opportunity set aside \$100 million of fiscal 1967 funds to finance concentrated manpower program efforts in certain urban and rural target areas with particularly heavy unemployment and underemployment. At the end of June 1967, contracts had been entered into for programs in 19 urban slum areas and in two rural areas. By July of 1968, the number of CEPs had increased to 76, of which 13 were located in rural areas. The CEP is a coordinating program, intended to serve as an "umbrella," combining the individual manpower programs on a specified target area into a single united effort, under a single contract with a single sponsor. CEP aims to eliminate duplication of services, and: "provides training and supportive services to disadvantaged persons so that they can obtain steady, decently paid employment. It attempts to achieve a balance of training opportunities and services of various types, in order to meet the specific needs of individuals, and to insure that the maximum results in terms of their preparation for a stable, worthwhile environment" (*Manpower Report of the President*, 1969, p. 132).

The intended emphasis of the program is clear in its title—it is an employment program, therefore, all the services offered by the program were intended to be subordinate to the basic issue of employing the hard core. This employment, however, was intended to be meaningful employment, in which, if necessary, concessions might be granted on the part of the employer, who would allow someone he might not ordinarily hire, because of lack of experience or disadvantaged background, to work for him. The CEP was to provide supportive services to the hard core employee both before and after placement.

Reports which I have read on CEP in various cities, in both its first and second years of operation, show that generally these programs were weakest and accomplished least, precisely in the area of employment of the hard core. The programs had little trouble meeting or surpassing their enrollment goals, and generally developed good orientation and basic education units. However, while the CEP study often reported 100 percent enrollment achieved, this accomplishment was in great contrast to a 16 or 17 percent achievement of job placement goals. The picture is even more disheartening when placement statistics are studied in the light of a job retention percentage. Not only was CEP to place people on jobs, these jobs were to be meaningful and people were to stay on them. In one CEP, figures showed that only 11 percent of those referred to jobs remained on the job thirty days or more. In this particular CEP, this meant that of the total intake, only 5.9 percent of the participants who had entered the CEP had been successfully served (defining success in terms of job placement for more than 30 days). Another CEP showed a 46.5 percent post-placement drop-out rate. This was a CEP that at a point close to the end of the program year had achieved only 17 percent of its job placement goals to begin with.

In addition, the studies I read questioned the character of the jobs obtained by CEP. It was determined that the salary most frequently earned before CEP was \$1.60 an hour, and the salary most frequently earned by CEP placements was also \$1.60 an hour. The jobs were not exactly career opportunities. Characteristically, they were fry cook, laborer, porter, groundskeeper type jobs. In addition, there were some high percentages of placement referrals, which were "rejected by employer". Such rejection notes seemed par-

ticularly significant since CEP's purpose was precisely to circumvent, through training, counselling and proper supportive services, frustrating rejections.

The CEP as I observed it in reading and discussion then, has to a very great extent been an exercise in unfulfilled promises. I am convinced that the promises are unfulfilled, not because CEP operators are men of ill-will or because CEP workers are not dedicated and hardworking. Rather, they are unfulfilled first because of the basic fact of conscious and unconscious discrimination in hiring, and secondly because the CEP has not attacked this central reality of the employment situation.

With regard to that first point—the reality of a discriminatory employment market—studies showed that so-called hard core individuals, with one or two years of college were as unable to get into the job market at something higher than \$1.60 an hour as were their under-educated CEP-trained brothers. Three volumes of powerful statistics issued by the U.S. Equal Employment Opportunity Commission: *Equal Employment Opportunity Report No. 1: Job Patterns for Minorities and Women in Private Industry, 1966* support these findings of the CEP studies. According to the EEOC report:

"Discrimination in employment is widespread and takes many forms; it can be found in almost every area, occupational group and industry and it has a crushing impact. In short, it is a profound condition, national in scope, and it constitutes a continuing violation of the American idea of fair play in the private enterprise system." (EEOC Report, July, 1968, p. 1).

The EEOC Report is a statement that cannot be ignored. It is an official substantiation of what any ghetto dweller can tell us:

"Job discrimination is a profound and pervasive condition in the American economy; it is a root cause of minority group problems, because the lack of meaningful and purposeful employment that provides adequate earnings is one of the basic reasons for the tragic plight of minority groups in America." (p. 20)

Thus, if the CEP does indeed have as its mandate to provide employment and supportive services around such employment, for the unemployed and underemployed poor, then the CEP has, by that very fact, a mandate to attack the basic cause of unemployment and underemployment of minorities, job discrimination. But the emphasis in the CEP as it developed in its first and second years has been on remediation of the individual rather than on remediation of the employing system. The assumption underlying this emphasis seems to be that if the individual is cleaned up and trained and learns some manners he will then be acceptable to the employer. In most CEPs studied, the effort has focused on changing the prospective employee to meet the standards of the employer, rather than enabling the employer to change or modify specifications to meet a hard core individual half way. It is interesting to pursue job orders and discover that an employer demanded that a person washing cars be: "conventional in dress, have an acceptable hair style, must be able to pass a math test and must be bondable." The pay for this job was \$1.60 an hour. There was often little evidence of willingness on the part of employers to change hiring specifications, create career ladders, or in any way to break the existing pattern of employment of minorities in unskilled or semi-skilled jobs.

There seems to be more basic assumption at work here, and that is that the onus for his situation lies totally on the hard core individual. The presumption is that the defects are totally his, and not at least partially, with the system. The emphasis is on a "you can pull yourself up by your own bootstraps" idea, the perpetuation of a sort of "American Dream". But for many minority group Ameri-

icans the American Dream has been a nightmare. The minority unemployed or underemployed individual is at once told that he is a failure, that it is all his own fault and he can succeed if he wants to. The only thing lacking is the will to succeed, according to most orientation and basic education programs. Yet the minority group individual has faced the hard facts of a system that will not accept him, no matter how much he wants to succeed. *This is a system that in many respects breaks a man's leg and then blames him for being a cripple.*

Not only do carefully documented scientific studies attest to the truth of what I am saying, but voices speak from the black and other minority communities to remind us with more and more force of the realities of American life. Further, violence in our cities which we cannot ignore, and which inspires national fear and misgiving is still another sign that we cannot go on ignoring the fact of discrimination in our lives.

The CEP, as I see it, although it was intended to tackle one of the most crucial results of discrimination—unemployment and under-employment—actually has too often avoided the real issue of discrimination. To say this is to say that CEP rarely did what I would consider to be job development, or job creation. Rather, the job unit of CEP most generally pursued a placement activity through the use of job orders. Characteristically, this unit was sub-contracted to the State Employment Service, and proceeded according to traditional Employment Service methods. This meant that CEP job units were characterized by a "slot" mentality. The emphasis was on fitting an individual into a slot by changing the individual.

What is demanded in CEP, as set forth by an excellent University of Michigan-Wayne State University report, entitled *Job Development for the Hard to Employ*, is genuine job development, and even job creation. Such job development may involve the CEP in actual economic development activities as well. *Basically, the job development unit in the CEP must become an active, aggressive confrontative force, which is highly sophisticated in its analysis of the national, state and local employment situation, and which is willing to challenge or confront the realities of employment discrimination by every possible method.*

That the CEP can indeed become such a force, and can actually realize successful activity in confronting and solving the genuine problems of unemployment—the recalcitrant discrimination system—has become evident to me in my study of the Indiana CEP program in Gary. The Gary CEP defined the CEP mandate in terms of *job creation*—restructuring of existing jobs so that hard core people could perform tasks not presently open to them; development of the economic base of the community—create jobs through techniques of bringing new industry into the community where necessary and economic through expansion of existing businesses and generating new business which would be black-operated and which would eventually become self-sufficient. The far-reaching activities stemming from realistic job development and economic development policy of the Gary CEP resulted in a highly successful job placement unit in that CEP. While the original contract called for 750 placements, according to the CEP Director, Gary has placed 2077 people on jobs with a retention rate of 67 percent.

The aforementioned facts cause me to be highly concerned about recent guidelines issued for CEP by the Department of Labor. These guidelines assign the major portion of CEP activities to the Employment Service, although the studies I have referred to have constantly indicated the weakness of the Employment Service in facing the real problems of unemployment. *The Employment Service has not evidenced the necessary determina-*

tion to pursue the type of negotiation necessary to produce genuine job development or job creation. Rather, the Employment Service has settled for slot-filling placement activity, which has little if any impact on the employment situation in the community.

In view of the crucial nature of the problem of discrimination and unemployment of minority groups in our country, I must question whether the Employment Service is in fact prepared to engage in actual job creating, job developing activity across the nation. Yet, if CEP is to realize its promises, this is the activity which must be at its heart. All the orientation, education and skill training in the world will not make up for the fact that there is no *meaningful job* at the end of the program—and this is a Concentrated Employment Program.

At the beginning of this statement, I referred to the fact that CEP must be considered as a microcosm of the implications of National Manpower Policy. The direction evidenced in the CEP guidelines is one that entrenches CEP in the system, and effectively prevents the program from changing the system to benefit the hard core individual. *National policy shows this continuing trend toward reinforcement of the system, to the detriment of the needy individual who for so many years has suffered beneath this system.*

The tension in the CEP between the system and the non-system is evident in the tension between the Community Action Agency the usual prime sponsor for CEP, and the State Employment Services, a usual major sub-contractor. The Employment Service is employer-oriented, the Community Action Agency is community-oriented, designed to mobilize community resources and develop programs to meet actual needs. *The basic direction of present manpower policy seems to be away from community innovation and community involvement in programs.* Such a direction, if pursued, will be the death not only of CEP, but also of effective confrontation with the real issues behind the poverty and frustration which plague our cities.

The Congress and the country must realize the short-comings in the present structure of the programs and resolve to do a better, more meaningful job in the future.

FRENCH-AMERICAN RELATIONS

Mr. DOLE. Mr. President, I have just learned from the distinguished junior Senator from Tennessee (Mr. BAKER) that this afternoon the President of the United States flew to New York City to reaffirm the positive nature of French-American relations.

I am gratified that President Nixon has personally indicated that the hostile greeting received by President Pompidou represents the actions of only a few Americans. While it is proper to question the advisability of the French sale of 110 Mirage jets to Libya, this issue must not overshadow the global importance of closer French-American relations. As President Pompidou said before the joint session of Congress last Wednesday:

It is a friendship which reaches both into a distant and a recent past, into the struggles waged together, the invaluable services rendered, whether long ago for your independence or 25 years ago—as no Frenchman has forgotten—for our liberation. But it is a living and active friendship because over and above interests which sometimes are bound to differ, there are common ideals which unite us and command our action.

President Nixon's affirmation of this friendship is to be commended by all

Americans. A New York Times editorial described very well the importance of this alliance. I ask unanimous consent that the editorial, published in today's New York Times, be printed in the RECORD.

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

MR. POMPIDOU IN NEW YORK

President Georges Pompidou's effort to repair French-American relations after the strains of the de Gaulle era has been hampered at every stage of his American tour by the disagreement over Mideast policy, and especially, the unwise French sale of 110 Mirage jets to Libya. The issue tended to overshadow others of great importance in the official discussions in Washington last week. The protest demonstrations have obscured further the positive aspects of this visit.

President Pompidou was reportedly so upset by his reception in Chicago and by the prospect of an even more hostile greeting in New York City today that he considered canceling the visit here. We hope that New Yorkers, whatever their reservations about French Mideast policy, will respect Mayor Lindsay's request that the French President be treated courteously during his stay in this city.

In the long view of history, the French-American differences over the Mideast are unlikely to prove as significant as the increasing area of agreement between the two governments. As long as General de Gaulle is looking over Mr. Pompidou's shoulder, French re-entry into NATO's integrated military structure cannot be expected, but, short of that, the presence of United States troops in Europe is welcomed and more French cooperation with the North Atlantic Alliance is on the way. The French attack on the American dollar is a thing of the past. American investment in Europe, within limits, is no longer opposed. France no longer proclaims a world mission of opposition to the United States. Attempts to dominate Western Europe alone or through a Paris-Bonn axis are ended. Most important, France no longer opposes either the entrance of Britain into the Common Market or other moves designed to advance Western European unity.

New Yorkers who are determined to express publicly today their disagreement with France's Mideast policy would do well to keep this larger picture in mind.

HUMAN RIGHTS TALLY

Mr. PROXMIRE. Mr. President, as of January 1, 1970, 19 human rights conventions and covenants designed to implement the Declaration on Human Rights have been adopted either by the U.N. General Assembly or by one of the specialized agencies, and many have been ratified by member nations. Many interested citizens and civic organizations are pressing for Senate ratification of these human rights documents which they believe, in essence, affirm the basic principles to which Americans are committed.

However, it is hard to tell this commitment by the record of the United States on these conventions. The U.S. record is a poor one.

Of a total of seven human rights documents submitted by the President to the Senate only three have been ratified to date. These are the Slavery Convention ratified in 1956, the Supplementary Slavery Convention ratified in December

of 1967, and the Protocol in the Status of Refugees ratified in October of 1968.

There still remain four human rights conventions submitted to the U.S. Senate—the Genocide Convention, Freedom of Association, Political Rights of Women, and Forced Labor.

What is our record?

Since 1948, 77 other nations have ratified the Freedom of Association Convention and 75 have ratified the Genocide Convention. The Political Rights of Women Convention was adopted by the U.N. General Assembly in 1952 and since then 64 nations have ratified this convention. Since 1957, 84 nations have ratified the Forced Labor Convention.

It is tragic that the United States still remains outside the world community in failing to ratify any of these important human rights convention.

DISTRICT OF COLUMBIA CRIME REPORT

Mr. MATHIAS. Mr. President, I ask unanimous consent to have printed in the RECORD the report of the crimes committed this weekend in the District of Columbia, as detailed in the Washington Post.

As I stated last week, my purpose is to call to the attention of this body the number of crimes occurring every day within the District. While we all realize that this city is not unique in its crime problem, it is unique in that the responsibility of halting this problem lies in the hands of Congress, which alone has jurisdiction in the governing of the District.

As the following incidents testify, it is past time for the hands which hold this city to begin moving more quickly toward the eradication of crime and, perhaps most important, those conditions that foster crime.

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

SOUTHEAST WOMAN, 22, RAPED AT GUNPOINT
A 22-year-old Washington woman was raped at gunpoint early yesterday in the 1900 block of Mississippi Avenue SE.

Police said the woman, who is employed as a clerk, was walking home from a party about 1 a.m. when a man wearing a black trench-coat and a fur hat approached her. He produced a gray handgun and forced her into a nearby wooded area where he attacked her police said.

Other serious crimes reported by area police by 6 p.m. yesterday include:

Michael R. Blake, of Washington, was beaten over the head with a bottle by a man with whom he had been arguing inside a bar in the 1900 block of 4th Street NE at about 1 a.m. Blake was treated at the Washington Hospital Center.

ASSAULTED

Dock Dukes Jr., of Washington, was reported in satisfactory condition at Children's Hospital after being shot in the right leg at 3:45 a.m. while standing on the corner of 17th and U Streets NW with several friends. Dukes told police they were fired upon by a man driving by in an auto.

Ira Seales, of Washington, was reported in satisfactory condition at the Washington Hospital Center after being shot in the left hip and left knee about 1 a.m. in his home. Seales told police that he became involved in a dispute with three other men, one of whom pulled out a revolver and shot him.

James Murphy, of Washington, told police

he was standing at the door of 1409 5th St. NW when he was approached by three men who began to beat him on the head and shoulders with large clubs. The three fled when Murphy's son opened the door.

Lawrence Dillard, of Washington, was struck above the eye with a handgun at about midnight as he was walking in the 1700 block of Montana Avenue NE. Three men approached him and one of the men struck him. All three then fled.

Charles F. Harper, of Washington was treated at Veterans Hospital for lacerations of the face. He told police he was on the corner of 14th Street and Rhode Island Avenue about 2:30 p.m. Friday when a man slashed him with a knife.

Herbert L. Guy, of Washington, told police he was jumped and beaten by four men about 8 p.m. Friday at Fort Davis and R Streets SE. Guy's glasses were broken but he was not injured seriously, according to police.

Fredericka Milton, of Washington, was treated and released at Cafritz Hospital for injuries received after stepping off a bus at Park and Branch Avenues SE. She told police she was attacked by two men, one of whom grabbed her and said "Come here." The second man then came over, she said, and they both beat her.

James Lloyd, of 724 11th St., SE., was treated and released at Freedmen's Hospital for cuts on the left buttock and the left hand. Lloyd told police he was at 5th and Q Streets NW about 1:25 a.m. when he was approached by about six men who began to beat him. Lloyd told police one of the men pulled a knife and stabbed him.

ROBBED

Tharwat Hassen Fahmy and Mohammed El-Dawi, both of Washington, were robbed Friday about 4 p.m. while walking in the 1400 block of Meridian Place NW. Two thieves brandished a dark revolver and demanded the victims' money.

Kathlyne Woolf Olsen, of Washington, had her purse snatched in front of her house Friday at 7:55 p.m. When her husband attempted to aid her, she was shot in the left leg and right buttock by one of the three assailants wearing a cowboy hat. Mrs. Olsen was taken to Cafritz Hospital.

Sherman Robinson, of Washington, was robbed Friday at 1:30 p.m. in the 1500 block of Levis Street NE by two men, each displaying guns. One said, "This is it. Give it all up."

Debra Weder, of Washington, was robbed Friday about 7 p.m. in the 1400 block of Massachusetts Ave. NW.

Jet Cleaners, 3507 Wheeler Rd. SE., was held up Friday at 1 p.m. by two men. One, carrying a long-barreled .32-caliber black revolver, ordered the cashier, "Open the cash register." The other man then emptied its contents.

Arthur L. Scott, of Washington, was held up by five men Friday about 6:15 p.m. in the 1600 block of Kenilworth Avenue NE. The robbers grabbed him from behind, knocked him to the ground and took his wallet.

Rosemary Chamberlin, of Washington, was held up Friday at 6 p.m. while walking in the 100 block of Barnaby Ter. SE. Four men approached her from behind. One grabbed her around the neck and threw her to the ground while another snatched her black leather pocketbook.

Mary Frye and Gloria Childs, both of Washington, stopped for a stop sign at 6th Street and Southern Avenue SE, at about 12:40 a.m. and their car was bumped from behind by a second auto. The two women left their car, checked for damages and were about to return to their car when the driver of the second vehicle pointed a gun at Miss Frye and robbed her.

Isaac D. Beatty, of Washington, answered

a knock on the door of his home in the 1400 block of Newton Street NW, at about 1:20 a.m. Six men entered and said "Be quiet and do what we say." The six, armed with four revolvers and two sawed-off shotguns, then forced Beatty, James Willoughby, Herbert Houshel, Wade Sowers, James Ray and Frederick Murdock to lie on the dining room floor where their hands were tied with neckties and they were robbed. The thieves took various items from the house before fleeing.

Oliver D. Jones of Washington, was robbed at about 9:30 p.m. Friday by three men who accosted him while he was walking in the 2000 block of Rhode Island Avenue NE. The men knocked him to the ground and took his wallet, eyeglasses and wristwatch.

STOLEN

A standard typewriter and an electric typewriter with a total value of \$900 were stolen from the office of John Thompson at 1330 Massachusetts Ave. NW when it was burglarized Friday.

BANDIT ROBS DRIVER OF \$160, FLEES

Rollin Gardner, an employee of the Wonder Bread Co., reported to police that he was robbed about 12:55 p.m. Saturday of \$160 in cash as he was getting into his truck at 711 S St. NW.

Gardner said that as he approached the truck, a man was standing beside it with his hand in his pocket as if he had a gun. The man said, "This is a holdup. Give me your money."

After taking Gardner's money, the holdup man was joined by another man. The pair fled east on S Street.

ROBBED

Barbara A. Lewis, of Washington, was robbed at 9:15 p.m. Saturday by four men, one armed with a revolver, at 22d and I Streets NE. Two of the men asked directions to Baltimore before the other two joined them and demanded money.

Richard L. Stewart, of Washington, while at the corner of 3d and P Streets NW at 7:15 Friday, was approached by two men, one armed with a revolver and the other with a sawed-off shotgun, who demanded money. The victim gave them his money and also money belonging to his employer. The men then ran north on 3d Street.

Claudell A. Bailey, of Washington, was approached at 11th and Clifton Streets NW by a man who asked for a ride. When in Bailey's auto, the man drew a revolver and demanded money. After taking the victim's money, the man fled north on 11th Street.

Mary Lee Medlin, of Washington, was standing in front of her home in the 2100 block of Ft. Davis Street SE at about 9:30 p.m. Saturday when she was approached by two men, one of whom said, "Give me your handbag or I'll shoot you." Miss Medlin did as she was told and escaped unharmed.

Bertha L. Ellis, of Washington, was standing in front of 606 Somerset Pl. NW at about 1:50 a.m. when she was approached by two men. The first man walked up to her and said, "Hi, baby!" and then pointed a gun at her and said, "Don't scream." The second man then took some change from Miss Ellis' pockets and the pair fled.

E. Francis, of Washington, was in the 1600 block of Harvard Street NW at 11:30 a.m. Saturday when he was robbed by a man with a revolver.

McDonald's restaurant, 6100 Baltimore Ave., Riverdale was robbed at 8:45 p.m. Saturday by a man armed with a pistol.

ASSAULTED

Gladys Salazar, of Washington, was walking in the vicinity of Connecticut Avenue and Rodman Street NW at about 10:30 a.m. Saturday when she was approached by a man who struck her in the eye with his fist.

Miss Salazar was treated at George Washington University Hospital and released.

John Davis, of Washington, was stabbed in the chest during a fight in his apartment at 10:45 p.m. Saturday. He was treated at Cafritz Hospital and released.

Mitchell J. Pastula, of Washington, was approached about 8 p.m. Friday by four men, who asked directions to the bottom of the hill in the area of 36th Street and Pennsylvania Avenue NE. When he told them there was a path, one of the men struck him in the mouth with his fist, and all four men ran.

BLIND STUDENTS AT THE UNIVERSITY OF KANSAS

Mr. DOLE, Mr. President, the handicapped often face severe difficulties in securing an adequate and fulfilling education. Perhaps no other handicapped group is presented with more profound educational obstacles than the blind.

Denied the fundamental faculty for absorbing knowledge, the visually handicapped must employ extraordinary techniques to acquire knowledge and communicate their understanding. In addition to problems of the classroom and study, ordinary matters of getting about campus are complex and hazardous.

I was pleased to note an article in the Kansas Alumni magazine of February 1970 which detailed some of the efforts being made at the University of Kansas to aid the educational endeavors of blind students.

I ask unanimous consent that the article be printed in the RECORD.

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

STUDENTS

How do the half-dozen blind students at KU manage to move around campus alone, study, take notes, read assignments, take tests? It's not easy, of course, and not until this year were any special provisions made for helping them with their studies. At the instigation of Gerry Hansen, a graduate student in business with only 10 percent vision, a group of volunteers have been organized to act as readers on a regular basis for the blind. A room with a tape recorder has been set up in Watson Library where blind students bring in whatever assignments need to be read and volunteers read into the tape for later use. Volunteers also are on hand to help blind students find other material they need in the library. As for getting around the campus, Susan Haller, freshman who has been blind since birth, says she doesn't have any more difficulty getting around the campus than a sighted student as "It all up hill from my dorm and we all have that climb." She takes notes in class in Braille with the aid of a plastic guide on her regular notebook paper.

I.R. & D.—A BILLION-DOLLAR BOONDOGGLE

Mr. PROXMIRE, Mr. President, today before the Armed Services Ad Hoc Subcommittee on Research and Development I testified as to why I thought Congress should develop more effective control over independent research and development—I.R. & D.—expenditures which now amount to almost a billion dollars a year. Last year the Department of Defense and the National Aeronautics and Space Agency alone spent over \$816 million of the taxpayers' money on so-

called independent research and development which was almost entirely controlled by the contractors and from which the Government often derived very little, if any, tangible benefits.

I favor encouraging research and development. But R. & D. is quite a different thing than Government expenditures for independent research and development, which has little or no clear relationship to existing or contemplated Government projects. Independent research and development is paid for by the Government in addition to direct research and development costs specified in a contract. I.R. & D. is a tenuous overhead cost often used by contractors as a catchall to pay for engineering and technical employees salaries which may be completely unrelated to any contract the company has with the Government.

The amount of a firm's overhead expenses directly related to a defense contract should be paid for by the Government. If possible, it should be paid for as a direct research and development cost specifically contemplated in the contract.

Those research and development costs which now come under the category of I.R. & D. and which cannot be directly or indirectly related to a specific contract should not be funded by the DOD. If, by chance, they involve basic research, they should be funded by the National Science Foundation.

Because of the large number of requests I have had for copies of this testimony, I ask unanimous consent that my remarks before the subcommittee be printed in the RECORD.

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

STATEMENT OF SENATOR WILLIAM PROXMIRE BEFORE ARMED SERVICES AD HOC SUBCOMMITTEE ON RESEARCH AND DEVELOPMENT

I appreciate very much the opportunity to testify on the subject of Independent Research and Development (I.R.&D.) and I want to congratulate the Senator from New Hampshire, Mr. McIntyre, and the Chairman of the Armed Services Committee, Mr. Stennis, for holding these hearings. Until now, Independent Research and Development has been a little known and mysterious subject.

Independent Research and Development is a new subject and a new issue to almost everyone in Congress. I was flabbergasted when in a conference with the Comptroller General last summer I found out that the Defense Department was picking up the tab of \$685 million and NASA \$131 million a year in private defense contractors research and development costs which were (1) not the subject of a contract or grant or other specific arrangement for research and development between the government and a company, which (2) need not bear any direct or even indirect relationship to any military or space need of the government and (3) over which the government had no control. That is why I have introduced S. 3003 which is the subject of these hearings today.

I.R.&D. is unlike a procurement contract where the Government agrees to buy a tank, and gets a tank.

It is unlike regular R. and D. contracts where the government works out the specific research it needs done and then support that research.

It is unlike a "basic" research contract where, even though the Government does not know what specific scientific or technological information it may receive, it nonetheless funds the research under formal authoriza-

tion procedures for the advancement in human knowledge which may take place. Under I.R.&D., such a result would occur by accident at best.

I.R. & D. is unlike any of these in another aspect as well. The Government not only receives no direct or specific product or benefit related to its needs—a plane, a tank, a new prototype, etc.—but under DOD and NASA regulations receives no license, patent, royalty, or right whatsoever for the money it expends.

The Government pays companies for work which is designed to benefit the company. And in addition to reaping the benefits on the I.R. & D. work itself, the Company also retains the right to all future benefits from licenses and royalties.

Even though it is one of the biggest single items of expense, I.R. & D. has never been directly authorized by the Congress. To my knowledge, it is the subject of no legislative authority. There is no item in the annual procurement bill which authorizes it. Nor is there any item in the appropriations bill which legitimizes it.

It is a back door boondoggle now amounting to just short of a billion dollars a year over which Congress has had no control and whose benefits to the Government and the taxpayers of the United States are, at best, indirect, transitory and evanescent and, at worse, nonexistent.

From time to time in the past, Congress has been accused of providing a blank check for the so-called military-industrial complex. I have made that charge myself. But here is a case where the military-industrial complex has not received a blank check from Congress. They have printed the checks and filled in the blanks themselves.

What is so-called Independent Research and Development? Basically, it is the amount of money which Defense and NASA military contractors expend to pay the salaries of engineers and other technical employees for work unrelated to any contract they have with the Government. And incidentally, it is limited to those firms who already have negotiated contracts with the Government. It is not an item which industry as a whole receives.

I.R. & D. is an item in addition to the sums directly expended for the procurement of weapons. I.R. & D. is an item paid for by the Government in addition to any direct research and development contract which a firm has with the Defense Department. It is an amount paid to firms in addition to the amount paid for the R. & D. portion of a major weapons procurement contract.

For example, when the Air Force bought the C-5A from Lockheed, it paid or pays for the planes it receives under the production contract. It also pays for the huge R.&D. work associated with the development of the plane, which in this case amounted to \$1,002,700,000. That is a part of its contract. But, the Air Force also picks up, as an overhead cost, Lockheed's expenditures for engineers, who do no work whatsoever on the C-5A or other military contracts. The Air Force picks up the tab for a part of the company's commercial work, and even for a part of the expense the company has in making proposals and bids for its non-military work.

I say this practice—whether at Lockheed or elsewhere—is improper, unauthorized, and, under the provisions of Section 203 of the 1969 Authorization bill, is not only wrong but actually illegal. It is now contrary to a specific provision of the law.

Section 203 states, "None of the funds authorized to be appropriated by this Act may be used to carry out any research project or study unless such project or study has a direct and apparent relationship to a specific military function or operation."

Nothing could be clearer or more explicit than that.

One of the shortcomings in the debate over I.R. & D. has been the absence of examples. \$685 million a year is spent, but we have no clear idea of what is it spent on. In fact, when I asked the General Accounting Office for examples, they told me that companies had vigorously objected to making public the kinds of items developed by them on the grounds that the research and its results was proprietary data. Think of that! The Defense Department pays out \$685 million for work which not only benefits but which they refuse to make public on grounds that the public has no right even to know about it. I think a great service could be performed if this Committee would require the DOD and NASA to give the specific items and research for which IRandD was paid. Nevertheless, I was able to get some examples both from the GAO records and from the Army Audit Report. Let me give some.

One U.S. major defense contractor prepared an analysis and commentary on a proposal prepared by a private, non-profit European organization called Eurospace. Eurospace was set up to promote space activities in Europe. The American contractor charged the costs of commenting on this proposal by a private European group to "Bid and Proposal" expense and allocated them to its U.S. Government contracts.

One company incurred I.R. and D. costs of 8.3 million in 1968 and 1969 to develop commercial programs in underwater exploration systems for oil and for a comprehensive information handling system for use in hospitals—both entirely unrelated to its defense contracts. In this case the Government accounted for 98 percent of the company's sales. In 1969, the Government agreed to pick up \$14.8 million in total I.R. and D. costs including these items and others without any sharing requirement on the part of the company. These are clearly examples of entirely commercially oriented programs for which the Government picks up the tab and, in the case of one item, where the Government may not receive any benefits at all. I would think that other commercial and non-defense offshore petroleum mining companies would be outraged that the Government should pick up the commercial research costs of their competitors.

In 1969, one contractor spent \$86,000 to study control problems related to the electric power industry. The project clearly was largely beneficial to the contractor's future business with private utility companies, although some minor and very general benefit might accrue to the Government. The funds went to provide tutorial training for the company's personnel in power systems, and to monitor and review the progress of the division's personnel as computer programs were developed. The Government paid for this obvious commercial work.

\$160,000 was paid out during 1969 for an IR & D project to develop a systems approach to industrial control fields such as water resource control, water pollution, waste control, etc. These were being performed by a Defense contractor and paid for through IR and D by the DOD. While they may be worthy items, they obviously give the contractor a leg up on his competitor, and should be performed under regular R. and D. contracts if some other Government Department needs the work done.

A major DOD and NASA contractor, working in space and satellite matters, and communication and ground systems, wrote off \$186,000 in 1968 and \$90,000 in 1969 for research "to provide systems and equipment for rapid transit train controls and to improve highway utilization."

Again, his competitors suffer a distinct disadvantage when the Government picks up this research cost unrelated to his defense contracts. And, if the Government wants the work done, it should be funded under the R. and D. funds of the Department of

Transportation. This is backdoor commercial, financing at its worst.

Any bonanza which is as lucrative and as unpoliced as this one soon attracts its supporters and apologists. Reasons for the practices are soon devised. In my judgment, the reasons are without merit. But the skies are black with the planes carrying the representatives of defense contractors flying into Washington to protect their bonanza. I can think of no redeeming argument in favor of the present method by which DOD and NASA pay for I.R. & D.

Let me be specific.

First. It is said that I.R. & D. is a legitimate overhead cost which should be paid for by the Government just as it would pay for any other overhead cost on a contract—rent, heat, light, maintenance, etc.

This is not true. When plant space is charged as overhead to a contract, the Government pays for the use of space which is "allocable" to the contract. This is a definite, measurable item. If in carrying out a Government contract, 5,000 square feet of floor space are used for the work, then the overhead charge for the space is a specific, proper charge, allocable to the contract which the Government should pay for as a part of the contract.

But, in the case of I.R. & D., the item is paid even when it is not allocable to the contract. Unless it is, it should not be paid.

Second, it is argued, as it was argued by the Defense Science Board Task Group, made up incidentally of six major Defense contractors, one research firm and one university (hardly an unbiased group) in justifying I.R. & D. in its Report of February, 1967, that "I.R. & D. provides a way to develop and demonstrate complete prototypes of technologically advanced hardware before a formally recognized military requirement exists." (p. 10 GAO report).

That argument is precisely why this subject must be brought under control.

If we want the development of complete prototypes—and we often do prior to the production phase of a weapons system—that should be done under a specific R. & D. contract which is authorized by Congress in its annual procurement and R. & D. authorization.

The Task Group argues in favor of non-authorized weapons systems. In fact, this is precisely what we should avoid. If we want a weapon, it should be authorized and funded under a regular research and development contract.

Third, the Task Force also argued for I.R. & D. on grounds that "It permits Defense contractors to develop the requisite technology for a known forthcoming military requirement."

That, too, is a redundant argument. A "known forthcoming military requirement" should be authorized and funded under regular R. & D. and procurement procedures. I.R. & D. is not needed for that.

The Constitution gives Congress the power to raise and support armies and to provide and maintain a Navy. How the taxpayers' money is spent, what weapons systems we need, and what priorities we make, both military and civilian are subjects for Congress to decide. It is Constitutionally vital that these procurement decisions be made deliberately by the Congress and not usurped by the Pentagon and its allies. For the Pentagon and its contractors to spend large funds prior to authorization for a "forthcoming military requirement" is to usurp the proper authority of this Committee and the Congress of the United States to develop, authorize and fund its weapons systems. This should be done by authorization. It should be through regular R. & D.

I am frankly outraged at the fact that the Pentagon and its contractors have taken over this proper Congressional function.

In previous testimony and in articles sup-

porting I.R. & D., its apologists cite a number of weapons systems, they claim were developed under the funds spent for I.R. & D. Among them are the Sikorsky S-64A Flying Crane, the missile site radar for the Nike Zeus, the technology for the shift from Polaris to Poseidon, and the integrated circuits for the Minuteman Guidance System. These are the key examples of technology said to have been developed under I.R. & D. and under the benefits summarized by the Defense Science Board Task Group.

But these are examples against, not for, I.R. & D.

(1) Each of them should have been and could have been developed under a regular R. & D. contract. Each should have been developed under a regular authorization, if they were not.

(2) The Minuteman Guidance System and the shift from Polaris to Poseidon are both examples of systems where there are a very grave technical difficulties and where there are huge cost overruns. If anything, our experience with these programs argues strongly against the system under which it is said they were developed.

(3) Whether they should be developed and when they should be developed is clearly the responsibility of Congress and not of the Pentagon and its industrial allies.

If in fact, the examples really are weapons which were developed under I.R. & D. they point up one of the major abuses of I.R. & D.; namely, the usurpation by the military-industrial complex of Congressional Constitutional authority.

We can draw two general principles from this. To the degree that any specific weapons system or technology grows out of I.R. & D.—and the claims in this respect have either been grossly exaggerated or they are terribly costly—they should have been developed under regular R. & D. programs, properly authorized by Congress.

On the other hand, I.R. & D. expenses which are taken and which bear no relationship to specific systems needed or desired by the Government, are an improper expenditure and should not be made at all.

In fact, if we continue on the present course, or if this situation becomes universal, we could actually reach a condition in which weapons systems turned down by Congress are developed through the back door by I.R. & D. expenditures.

One other point should be made here. I doubt very much if the research and development for these systems was done through I.R. & D. in any case. If that is true, why did we later spend such huge amounts on R. & D. in the contracts for these systems?

For example, the R. & D. element in the contract for the Flying Crane (the S-64-A) was \$20,299,000 according to information given to me by the Army. The R. & D. element in the contract for transforming 31 Polaris submarines into the Poseidon system was \$1.5 billion as of June 30, 1969, according to information supplied to me by the General Accounting Office. If I.R. & D. was so important in the development of this system, why did we have to spend another \$1.5 billion on RDT & E? And incidentally, we have been having big delays and big overruns on this system.

The Missile site radar for the Safeguard is also given by some as a benefit from I.R. & D. But as we all know, one of the most vulnerable items in Safeguard and one of the main reasons for such heavy opposition to it, is the fact that the missile site radar doesn't function adequately.

In addition, the R.D.T. & E. amounts for Safeguard are estimated at \$2.072 billion of which about \$181 million is for the missile site radar. Why do we need such huge additional R. & D. amounts in the procurement itself if the funds spent for I.R. & D. were responsible for the Safeguard development? The answer is that they were not responsible

and that these are largely specious and irrelevant examples put forward at a late hour by the proponents of a system which is otherwise quite impossible to defend.

And, of course, the overwhelming proportion of I.R. & D. was paid out for overhead costs which proponents of the system do not even claim had any precise or specific military benefit to the country.

Let me turn now to two other arguments used in support of I.R. & D. These are that I.R. & D. is necessary to keep an up-to-date and modern industrial technology base in place, and that it is important as a means of maintaining the profitability of business enterprises.

Both of these arguments are specious. If it is argued that I.R. & D. is necessary to keep a modern and up-to-date, or advanced industrial technology in place, there are at least two major questions or replies.

At the present time, and I hope for the future as well, I.R. & D. goes only to those defense contractors who are given negotiated contracts. Those industries which do not sell to the Pentagon, or do not sell under negotiated contracts, get no I.R. & D.

Surely one does not argue that the way to keep a military-industrial base in place is by giving additional funds to those who already receive the big benefits. Let us take Company X, which builds a tank or a plane or a ship.

In addition to a billion dollars for R. & D. for the weapon, and \$3 to \$4 billion for the production models of the weapon, the supporters of I.R. & D. argue that Company X should be paid for the R. & D. it does for its commercial business. This is for funds spent by the Company unrelated to defense needs or the R. & D. needs of this weapon. It is justified on the grounds that it is necessary in order to keep an industrial capability in place. The mere statement of that argument is enough to indicate its absurdity.

In the first place, a sizeable amount of negotiated contracts, are given on the grounds that we need to keep intact a strong industrial capability. The negotiated contract itself is often given on this basis. Then the amount of I.R. & D. is paid for on the same basis. We are being asked to pay twice for this benefit. This should be called "All This and Heaven Too." In F.Y. 1969, for example, \$4.8 billion in negotiated defense contracts or 11.7% of the total amount of negotiated procurement was awarded on this basis.

And another \$4.8 billion and 11.7% of all Defense Department negotiated contracts was given on the grounds that it was necessary for experimental, developmental, test or research purposes. Thus, 23.4 percent, or almost one quarter of all negotiated contracts by the Pentagon, is already granted for the same or closely associated purposes for which additional payments for I.R. & D. are given.

Second, it would be a much stronger argument to argue that if anyone is to be subsidized it is those companies who do not receive military contracts. But these are precisely the firms who are left out.

I do not advocate that the funds be shifted. I merely point out how absurd the argument is. We would be far stronger to take the I.R. & D. funds, determine precisely what R. & D. we needed, convert them into regular R. & D. contracts, and have them performed by companies not now doing defense business. That might indeed increase our industrial capability.

The argument that we should willy-nilly pay I.R. & D. amounts in order to maintain the "profitability" of business enterprises, of course goes against every principle on which the businesses of this country are supposedly founded. There is no more reason to keep an uneconomic and inefficient defense contractor in business than to provide a subsidy to keep an inefficient and uneconomic civilian

industry in business. In fact, this country would be far stronger, and a good deal of the fat and waste in the Defense Department would be cut out, if we let a few of the uneconomic companies with huge cost overruns go down the drain. Uneconomic and inefficient defense contractors weaken the country. They drain off resources which could be used much more efficiently elsewhere. We should not be required to pay them a subsidy to make them profitable.

What then should be done?

The present system should end.

Necessary and direct research and development now given under I.R. & D. should be converted to R. & D. contracts. Companies should be paid for "allocable" expenses directly connected with their specific Defense contract. They should be paid for research and development on weapons systems which Congress specifically authorizes and funds.

This is important not only to bring some measure of accountability into the system but to return to Congress its Constitutional prerogatives and to end the usurpation of its powers by the Pentagon and its industrial allies.

Not only is this necessary and desirable, but it is now the law of the land and should be obeyed.

The worst possible thing that could happen, and I want to warn against it, would be to have a single, Government-wide R. & D. system modeled on the Defense Department-NASA system. The effect of that would be merely to universalize sin.

We should no longer continue to spend hundreds of millions of taxpayers' money for overhead costs unconnected with direct military or Pentagon needs. We already spend billions on procurement. These contracts include large generous sums for R.D.T. & E. for the weapons systems. In addition, we spend other large sums for a variety of research and development projects. To do more is unnecessary. To continue paying for I.R. & D. for a firm's commercial, and indirect, and general research is illegal.

ADMINISTRATION'S VOTING RIGHTS BILL

Mr. HRUSKA. Mr. President, last July the Subcommittee on Constitutional Rights had hearings on a number of Senate proposals to amend and to extend the Voting Rights Act of 1965. Those hearings were extensive and balanced, and were supplemented by additional testimony before the subcommittee during recent weeks. We heard from many witnesses, including Attorney General John Mitchell who testified in support of S. 2507.

Since our hearings a House bill, H.R. 4249, has been considered and passed by the House. That bill had been introduced in the House at the same time that S. 2507 was introduced in the Senate. They were identical bills, and were introduced on behalf of the Nixon administration.

H.R. 4249 was made the pending business of the Senate today. Therefore, in order to aid in the consideration and analysis of this bill, I ask unanimous consent to have portions of the Attorney General's statement before the Constitutional Rights Subcommittee on July 11, 1969, printed in the RECORD at the end of my remarks.

The Attorney General's remarks deserve to be read and considered by all Senators. The thrust of those remarks is that it is time to enact a voting rights bill that is nationwide and that returns us to our courts of law. The Attorney

General's reasons are strong and compelling and supported with sound evidence.

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

STATEMENT OF ATTORNEY GENERAL JOHN N. MITCHELL BEFORE SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS OF THE SENATE JUDICIARY COMMITTEE ON S. 2507

I. INTRODUCTION

Mr. Chairman, and members of the Subcommittee, I want to thank you for the opportunity to testify today. I appreciate the courtesy you have shown in scheduling the date of this hearing.

The right of each citizen to participate in the electoral process is fundamental to our system of government. If that system is to function honestly, there must be no arbitrary or discriminatory denial of the voting franchise. The President has committed this Administration to the view that it will countenance no abridgment of the right to vote because of race or color or other arbitrary restrictions.

Furthermore, the President is committed to the policy that it is in the national interest to encourage as many citizens as possible to vote and to discourage the application of unreasonable legal requirements.

In the last several months, we have made a thorough review of the possible consequences arising from the expiration of the 1965 Voting Rights Act. We have also examined the general theories and facts underlying voting practices in the nation and the need for federal legislation.

We have come to the firm conclusion that voting rights is no longer a regional issue. It is a national concern for every American which must be treated on a nationwide basis.

Our commitment must be to offer as many of our citizens as possible the opportunity to express their views at the polls on the issues and candidates of the day.

Therefore, we propose the following amendments to the 1965 Voting Rights Act designed to greatly strengthen and extend existing coverage in order to protect voting rights in all parts of the nation.

First: A nationwide ban on literacy tests until at least January 1, 1974.

Second: A nationwide ban on state residency requirements for Presidential elections.

Third: The Attorney General is to have nationwide authority to dispatch voting examiners and observers.

Fourth: The Attorney General is to have nationwide authority to start voting rights law suits and to ask for a freeze on discriminatory voting laws.

Fifth: The President is to appoint a national voting advisory commission to study voting discrimination and other corrupt practices.

Before describing our proposals in detail, I would like to review the situation at this time.

2. THE VOTING RIGHTS ACT OF 1965

A. Background. The Fifteenth Amendment to the Constitution was adopted in 1870. It provides 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."

Since the passage of the Fifteenth Amendment, the Congress has been repeatedly told that Negro citizens were subjected to racial discrimination in many areas of the nation, particularly in the South. As a result, Congress enacted the Civil Rights Act of 1957, followed by the Civil Rights Act of 1960 and the Civil Rights Act of 1964.

Each of these three Acts provided addi-

tional procedures to assure equality in voting. In 1965, the situation was this:

The Department of Justice was pursuing case-by-case, county-by-county remedies under the Voting Rights Acts. The Congress believed that more progress could be made by the passage of additional legislation.

B. Because the six states which had the lowest voter turnout in the 1964 election also had literacy tests—and because these states also had the nation's highest ratios of Negro population and the lowest ratios of Negro voter registration—certain corrections were legislated by the Congress. These corrective measures were contained by the Voting Rights Act of 1965.

3. THE 1965 VOTING RIGHTS ACT TODAY

A. *Provisions of the 1965 Act.* The Act provided for suspension of literacy and similar tests and devices in states and counties where such tests were utilized; and where less than 50 percent of the total voting-age population was registered to vote or voted in the November 1964 election. This suspension could be removed if the state or county could show that it had not used such tests with a discriminatory purpose or effect. (Section 4)

Other provisions of the Act authorize the Attorney General to direct the assignment of federal examiners, who list persons qualified to vote, and election observers to counties covered by the Act. (Sections 6 and 8) Also, covered states and counties are prohibited from adopting new voting laws or procedures unless they have received the approval of the Attorney General or the United States District Court for the District of Columbia. (Section 5)

B. *Coverage.* Areas now subject to the coverage of the Act are the States of Alabama, Georgia, Louisiana, Mississippi, South Carolina and Virginia, 39 counties in North Carolina, one county in Arizona, and one county in Hawaii. These jurisdictions have not applied to federal courts asking for removal of the ban, except for Gaston County, North Carolina, which I will discuss later.

The State of Alaska and some isolated counties elsewhere were within the formula, but sought and obtained judgments indicating that their tests had not been used discriminatorily.

C. *Results.* The results of the 1965 Act are impressive. Since 1965, more than 800,000 Negro voters have been registered in the seven states covered by the Act.

Moreover, according to the figures of the voter education project of the Southern Regional Council, more than 50 percent of the eligible Negroes are registered in every Southern state.

D. *Termination of Coverage.* The Voting Rights Act also provides another means by which a state or county within its coverage may seek termination of such coverage. Section 4(a) provides that the suspension of tests will end if the jurisdiction obtains from the United States District Court for the District of Columbia a declaratory judgment that there has been no discriminatory use of a test or device during the preceding five years.

The statute directs the Attorney General to consent to such a judgment if no such test or device was so used. Because no covered jurisdiction will have employed a literacy test since August 1965, under the present terms of the Act, the awarding of the declaratory judgments after August 1970 will be virtually automatic for six states and 39 counties in the South.

However, Section 4(a) provides that the district court is to retain jurisdiction of the action for five years after judgment and is to reopen the matter upon motion of the Attorney General alleging discriminatory use of a test or device.

Highly relevant to this provision is the recent decision of the Supreme Court in *Gaston County v. United States*.

4. THE GASTON COUNTY DECISION

Gaston County, North Carolina, filed an action for a judgment to end the suspension of its literacy test under the 1965 Act. The county sought to prove that, when the literacy test was in effect, it had been administered on a non-discriminatory basis.

The United States introduced evidence showing that, in Gaston County, the adult Negro population had attended segregated schools and that these schools were in fact inferior to the white schools. Relying on such evidence, the District Court ruled that literacy tests had the "effect of denying the right to vote on account of race or color" because the county had deprived its Negro citizens of equal educational opportunities in the past and therefore had deprived them of an equal chance to pass the literacy test.

On June 2, 1969, the Supreme Court affirmed the decision of the District Court.

The Supreme Court ruled that offering today's Negro youth equal educational opportunities "will doubtless prepare them to meet future literacy tests on an equal basis." The Court added that equal education today "does nothing for their parents." It ruled that Gaston County had systematically denied its black citizens equal educational opportunity; and that "Impartial" administration of the literacy test today would serve only to perpetuate those inequities in a different form." Accordingly, the Court held such tests unlawful under the Voting Rights Act.

Under the *Gaston County* decision, any literacy test has a discriminatory effect if the state or county has offered not only education which is separate in law, but education which is inferior in fact to its Negro citizens. Evidence in our possession indicates that almost all of the jurisdictions in which literacy tests are presently suspended did offer educational opportunities which were inferior.

Therefore, it is my view that, in regard to most of the jurisdictions presently covered by the 1965 Act, I would be obliged to move, shortly after reintroduction of the literacy test, to have the test suspension reimposed in the seven covered states. I believe that the lower courts, under the *Gaston County* ruling, would suspend the literacy test and would continue to do so until the adult population was composed of persons who had had equal educational opportunities. In short, in my opinion, the ban on literacy tests would continue for the foreseeable future in the states presently covered by the Act, even if no new legislation were to be enacted by the Congress.

Furthermore, I believe that the *Gaston County* decision would continue to suspend existing literacy tests or would ban the imposition of new literacy tests in those areas outside of the seven states covered by the 1965 Act where publicly proclaimed school segregation was prevalent prior to 1954. This would include all or part of Florida, Arkansas, Texas, Kansas, Missouri, Maryland, the District of Columbia, Kentucky and Tennessee.

5. LEGISLATIVE PROPOSAL

To protect against future denials of the right to vote and to encourage fuller utilization of the franchise, I propose the following amendments to the 1965 Voting Rights Act.

First: No state or political subdivision may require any person to pass a literacy test or other tests or devices as a condition for exercising the fundamental right to vote, until January 1, 1974.

The reasoning behind this suggestion is as follows—and this reasoning not only strongly supports our proposal but shows the inadequacy of a mere simple 5 year extension of the 1965 Act.

A. My personal view is that all adult citizens who are of sound mind and who have

not been convicted of a felony should be free to and encouraged to participate in the electoral process. The widespread and increasing reliance on television and radio brings candidates and issues into the homes of almost all Americans. Under certain conditions, an understanding of the English language, and no more, is our national requirement for American citizenship.

Perhaps more importantly, the rights of citizenship, in this day and age, should be freely offered to those for whom the danger of alienation from society is most severe—because they have been discriminated against in the past, because they are poor, and because they are undereducated. As responsible citizenship does not necessarily imply literacy, so responsible voting does not necessarily imply an education. Thus, it would appear that the literacy test is, at best, an artificial and unnecessary restriction on the right to vote.

B. *Literacy Test Background.* The history of the literacy test in this country shows quite clearly that it was originally designed to limit voting by "foreign" born and other minority groups.¹ Available information today shows that present enforcement of literacy requirements in states not covered by the 1965 Act indicates considerable variance in procedures.

In some states literacy requirements are no longer enforced or are enforced only sporadically. In other states the literacy test is not applied uniformly but is applied at the discretion of local election officials.²

C. Today, a total of 19 states have statutes prescribing literacy as a pre-condition for voting. This number includes the seven Southern states, where as a result of the 1965 Act, the literacy test is suspended in all or part of the state. Also, there are 12 states outside the South which have constitutional or statutory provisions for literacy tests.³

D. The Supreme Court appeared to tell us in the *Gaston County* case that any literacy test would probably discriminate against Negroes in those states which have, in the past, failed to provide equal educational opportunities for all races.

Many Negroes, who have received inferior educations in these states, have moved all over the nation.

The Bureau of the Census estimates that, between 1940 and 1968, net migration of non-whites from the South totaled more than four million persons.⁴ Certainly, it may be assumed that part of that migration was to those Northern and Western states which employ literacy tests now or could impose them in the future; and that, as was true in *Gaston County*, the effect of these tests is to further penalize persons for the inferior education they received previously. For ex-

¹Bromage, *Literacy and the Electorate*, XXIV Amer. Pol. Sci. Review 946, 951 (1930); Porter, *A History of Suffrage in the United States*, p. 118 (1918). See, e.g., *Katzenbach v. Morgan*, 384 U.S. 641 (1966).

²Letters to Congressman F. Thompson from Deputy Attorney General of Delaware, CONGRESSIONAL RECORD, vol. 115, pt. 10, p. 12736, and from Assistant Secretary of State of Oregon, CONGRESSIONAL RECORD, vol. 115, pt. 10, p. 12739. E.g., Letter to Congressman Thompson from the Attorney General of California, CONGRESSIONAL RECORD, vol. 115, pt. 10, p. 12740.

³These states are Alaska, Arizona, California, Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New York, Oregon, Washington and Wyoming. Idaho has a good character requirement which is a "test or device" within the meaning of section 4(c) of the 1965 Act.

⁴Bureau of the Census, Current Population Reports, Series P-23 No. 26, *Social and Economic Conditions of Negroes in the United States* (July 1968), p. 2.

ample, in the South, 8.5% of the white males over 25 have only a fourth grade education as opposed to 30% for Negro males.⁵

Thus, following the Supreme Court's reasoning, it would appear inequitable for a state to administer a literacy test to such a person because he would still be under the educational disadvantage offered in a state which had legal segregation.

E. Furthermore, the Office of Education studies and Department of Justice law suits have alleged that areas outside of the South have provided inferior education to minority groups. Following the general reasoning of the Supreme Court in the Gaston County case, I believe that any literacy test given to a person who has received an inferior public education would be just as unfair in a state not covered by the 1965 Act.

Unfortunately, the statistics appear to support this argument. In the Western states, 3.5% of the white males have only a fourth grade education as opposed to 10.6% of the Negro males over 25 years of age; in the North Central states, 3.1% of the white males have only a fourth grade education as opposed to 14.6% of the Negro males; and in the Northeast, 4.2% of the white males have only a fourth grade education as opposed to 8% of the Negro males. Thus, inferior education for minority groups is not limited to any one section of the country.

F. The proposal for a simple five-year extension of the 1965 Voting Rights Act leaves the undereducated ghetto Negro as today's forgotten man in voting rights legislation.

He would be forgotten both in the 12 states outside the South which have literacy tests now and in the 31 other states which have the ability, at any time, to impose them.

It is not enough to continue to protect Negro voters in seven states. That consideration may have been the justification for the 1965 Act. But it is unrealistic today.

I believe the literacy test is an unreasonable physical obstruction to voting even if it is administered in an even handed manner. It unrealistically denies the franchise to those who have no schooling. It unfairly denies the franchise to those who have been denied an equal educational opportunity because of inferior schooling in the North and the South.

But perhaps, most importantly, it is a psychological obstruction in the minds of many of our minority citizens. I don't have all the answers. But I suggest to this Subcommittee that it is the psychological barrier of the literacy test that may be responsible for much of the low Negro voter registration in some of our major cities.

Because records on voter registration and voting are not kept on a racial basis in the North, it is difficult to determine conclusively the level of Negro voting participation.

In most Deep South Counties subjected to literacy test suspension, between 50 and 75% of the Negroes of voting age are now registered to vote. It is clear that this level is higher than Negro voter participation in the ghettos of the two largest cities outside the South—New York and Los Angeles—where literacy tests are still in use. Furthermore, in non-literacy test Northern jurisdictions like Chicago, Cleveland and Philadelphia, Negro registration and voting ratios are higher than in Los Angeles and New York.

Consider, for example, the 1968 voter turnout in New York City. In the core ghetto areas of Harlem, Bedford-Stuyvesant, the South Bronx and Brownsville-Ocean Hill, six nearly all-Negro Assembly districts (55th, 56th, 70th, 72nd, 77th, and 78th) cast an average of only 18,000 votes in 1968 despite 1960 Census eligible voter population of 45,000-55,000. On average, less than 25,000 voters were registered in these districts.

⁵ Bureau of the Census, Current Population Reports, Series P-20, No. 182 (1969), *Educational Attainment: March 1968*, table 3.

In addition since Congressional districts are roughly equal in population, voting statistics from such districts may be used to compare New York and California Negro voter turnouts with those of other states.

In the nine Northern big city states—Massachusetts, New York, New Jersey, Pennsylvania, Ohio, Michigan, Illinois, Missouri and California—there were only ten congressional districts where fewer than 100,000 votes were cast for Congress in 1968.⁶ Of the ten, one was in California; and eight were in New York. Each of the nine districts—the 21st California; the 11th, 12, 14th, 18th, 19th, 20th, 21st and 22nd New York—consists largely or partly of Negro ghetto areas.

These statistics illustrate a prima facie relationship between Northern literacy tests and low participation by Negroes.

G. We clearly believe this amendment to suspend literacy tests and the other amendments we propose are within the jurisdiction of the Congress under its ability to implement the 14th and 15th Amendments, in view of the United States Supreme Court opinions in *United States v. Guest*,⁷ *Katzbach v. Morgan*,⁸ *South Carolina v. Katzenbach*,⁹ and *Gaston County v. United States*.¹⁰

H. Mr. Chairman, I urge this Committee not to permit the Negro citizens outside of the South to be forgotten. I urge this Committee to grant them the encouragement to vote and the protections for voting that are now granted to Negro citizens in the South. This encouragement has proved so successful that there have been 800,000 Negro voters registered since the passage of the 1965 Act.

Second: No person should be denied the right to vote for President or Vice President if he has resided in a state or county since September 1 of the election year. Persons moving after September 1 who cannot satisfy the residency requirement of the new state or county should be permitted to vote in the Presidential election, in person or by absentee ballot, in the former state or county.

This proposal would authorize the Attorney General to seek judicial relief against any abridgment of these residency rights.

The reasoning behind this suggestion is as follows:

Our society is mobile and transient. Our citizens move freely within states and from one state to another. According to the Bureau of the Census, in reference to the 1968 Presidential election, more than 5.5 million persons were unable to vote because they could not meet local residency requirements.

A residency requirement may be reasonable for local elections to insure that the new resident has sufficient time to familiarize himself with local issues. But such requirements have no relevance to Presidential elections because the issues tend to be nationwide in scope and receive nationwide dissemination by the communications media. The President is the representative of all the people and all the people should have a reasonable opportunity to vote for him.

Third: The Attorney General is to be empowered to send federal examiners and election observers into any county in the nation if he determines that their presence is necessary to protect the rights of citizens to vote.

The reasoning behind this suggestion is as follows:

Our proposal would grant to the Department of Justice the right to send voting examiners and observers to any county in the nation where such action is warranted because of reported violations of the Fifteenth Amendment. Our use of voting ob-

servers in the South has provided information to the Department of Justice which has enabled us frequently to ward off infractions of the Fifteenth Amendment. Similarly, in some counties, use of federal examiners to list persons as eligible to vote has been necessary because local officials have refused to register them.

Under the 1965 Act, the Attorney General is required to go to court to request voting examiners and observers in non-Southern states. Under our bill, he has the authority to send the observers and examiners any place without first applying to a court.

Fourth: The courts, on application of the Attorney General, would be permitted to temporarily enjoin discriminatory voting laws and to freeze any new voting laws passed by the state or county against whom the lawsuit is filed.

The reasoning behind this suggestion is as follows:

Because of the nature of elections and the fact that it is difficult at a much later date to correct the result of any illegal inequities, I believe that the Attorney General should have the discretion, in cases which appear to have serious consequences, to ask the court to temporarily freeze the situation in a particular county.

This was basically the philosophy adopted by the 1965 Voting Rights Act which provided that no election laws passed by states covered by the Act could be changed without approval of either the courts or the Attorney General. In contrast to the 1965 Act, our proposal leaves the decision to the court, where it belongs; and properly places the burden of proof on the government and not the states.

The pre-clearance requirements of Section 5 of the 1965 Act have been difficult to administer effectively. To date there have been some 345 submissions to the Department of Justice. We have sixty days to determine if a law has a discriminatory purpose or effect. Unless we are extremely familiar with the political structure of a given jurisdiction or are capable of detailing investigators to make appropriate inquiry or receive complaints from local sources—it is virtually impossible to know if changes in the rules of a state election board, relocation of a polling place, consolidation of an election district, or some technical change in the election laws has such a discriminatory purpose or effect.

Despite the terms of the 1965 Act, when local officials have passed discriminatory laws they have usually not been submitted to the Attorney General for approval. Rather, the Department of Justice has had to seek federal court assistance to void them. Since 1965 only ten laws submitted to the Department for approval have been disapproved, six of them this year.

Areas which passed discriminatory voting laws are likely to quickly pass substitutes. Our new proposal would eliminate this practice by giving the courts the authority to issue blanket orders against voting law changes.

The penalty for this violation of the court order would be contempt.

Under the present laws outside of the seven covered states, the Attorney General is limited in voting rights cases to a claim of Constitutional violation. Under our proposal, he could institute a lawsuit any place in the country based on the broader statutory protection of a discriminatory "purpose or effect" of a particular voting law or set of voting laws.

This would make it clear to the courts that it is unnecessary to prove that the intent of the local or state officials was racially motivated.

For all of these additional safeguards, we have only modified one section of the Act. States and counties would no longer be required to automatically submit all changes in their voting laws.

⁶ Congressional Directory for the 91st Congress, pp. 359-366.

⁷ 383 U.S. 745 (1966).

⁸ 384 U.S. 641 (1966).

⁹ 383 U.S. 301 (1966).

¹⁰ 37 Law Week 4478 (1969).

With the entire nation covered, it would be impossible for the Civil Rights Division of the Department of Justice to screen every voting change in every county in the nation. Furthermore, the evidence indicates that even in the seven covered states officials who wish to pass discriminatory laws do not submit them in advance to the Department of Justice. They put them into effect and require the Justice Department to discover them and bring suit.

To justify this single modification of Section 5, I would like to point out that the incidence of reported racial discrimination in voting has substantially decreased.

For example, since August 1965, we have received a total of 312 complaints of voter discrimination—231 from the covered states and 81 from the non-covered states.

In fiscal 1966, there were 157 complaints; in fiscal 1967, there were 92 complaints; in fiscal 1968, there were 45 complaints and through April of fiscal 1969, there were 18 complaints.

This sharp decrease would seem to indicate that the dangers to voting rights, which existed prior to the passage of the 1965 Act, appear to have substantially decreased in the seven covered states—decreased to the point where we no longer think it is necessary for these states to automatically present their voting law changes to the Department after August 1970.

Fifth: A Presidential advisory commission would be established to study the effects which literacy tests have upon minority groups, to study the problem of election frauds, and to report to Congress its findings and recommendations for any new legislation protecting the right to vote.

The reasoning behind this suggestion is as follows:

In order to determine whether additional legislation will be necessary or appropriate, a Presidential advisory commission would study the effects which literacy and similar requirements for voting have upon minorities and upon low-income persons.

The Bureau of the Census would be directed to conduct special surveys regarding voting and voter registration and to make the data available to the commission. The commission would also study election frauds. It would be required to submit to Congress, not later than January 15, 1973, a report containing the results of its study and recommendations for any new federal voting laws.

Our recommendation to study voting fraud stems from our strong interest in insuring that each citizen's vote will count equally with the vote of his fellow citizen. For too long, we have failed to take as aggressive action as we might in view of frequent evidence of false registration, illegal vote purchasing and the misreporting of ballots cast.

My previous testimony concerned encouragement of protection for and the exercise of the franchise prior to entering a voting booth. This fraud study, a logical extension, may help to guarantee the sanctity of the ballot once it is cast. Certainly, if we have a federal interest in encouraging persons to vote, we have a federal interest in insuring that their ballot be correctly processed.

6. OPPOSITION TO 5-YEAR EXTENSION

Finally, there has been a suggestion that our proposal is merely a delaying tactic to tie up any attempt to extend the 1965 Voting Rights Act. I must disagree with this assessment.

First: As I said in my previous testimony, the *Gaston County* case extends the literacy test ban for the foreseeable future in those states which previously maintained segregated and inferior school systems. Second: It would appear that any proposed amendment to this bill—no matter how well motivated and how comprehensive—would be open to criticism as a delaying tactic. Under

these circumstances, it is difficult for me to see how I can extend the coverage to those citizens who need it in any way. Third: We do not want to see the Act lapse in August 1970. We favor its extensions both in time and in its geographical coverage. I believe there should be sufficient time for the necessary hearings and debate on our proposal prior to the termination of parts of the 1965 Act in August of 1970. I believe that it is worth the extra effort to extend the Act to the entire nation. I would hope that this Committee would support S. 2507, introduced by Senator Dirksen.

We will cooperate with this Committee and with the Congress to assure a strong and timely bill.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, communicated to the Senate the intelligence of the death of Hon. JAMES B. UTT, late a Representative from the State of California, and transmitted the resolutions of the House thereon.

ENROLLED BILLS SIGNED

The message announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the President pro tempore:

S. 2523. An act to amend the Community Mental Health Centers Act to extend and improve the program of assistance under that act for community mental health centers and facilities for the treatment of alcoholics and narcotic addicts, to establish programs for mental health of children, and for other purposes;

S. 2809. An act to amend the Public Health Service Act so as to extend for an additional period the authority to make formula grants to schools of public health, project grants for graduate training in public health and traineeships for professional public health personnel;

H.R. 11651. An act to amend the National School Lunch Act, as amended, to provide funds and authorities to the Department of Agriculture for the purpose of providing free or reduced-price meals to needy children not now being reached; and

H.R. 14733. An act to amend the Public Health Service Act to extend the programs of assistance for health services for domestic migrant agricultural workers and for other purposes.

VOTING RIGHTS ACT AMENDMENTS OF 1969

The PRESIDING OFFICER. Under the order of December 16, 1969, the Chair lays before the Senate the bill which now becomes the pending business. It will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (H.R. 4249) to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and other devices.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

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

Mr. SCOTT. I yield.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant 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.

Mr. SCOTT. Mr. President, I understand the pending business is H.R. 4249.

The PRESIDING OFFICER. The Senator is correct.

Mr. SCOTT. Mr. President, before making some remarks on that subject, I ask unanimous consent to speak on another matter.

Mr. BYRD of West Virginia. Mr. President, reserving the right to object, is the subject on which the able minority leader is about to speak one which is germane to the pending business?

Mr. SCOTT. It is. It refers to the disadvantaged minority groups.

Mr. BYRD of West Virginia. Mr. President, that does not answer the question. Is it germane to the pending business?

The able minority leader must know the intention on the part of the majority and minority leaders to enforce the Pastore rule.

Does the able minority leader feel that the subject on which he is about to speak is germane to the pending business?

Mr. SCOTT. Mr. President, I will withdraw my unanimous-consent request and address myself to the subject later.

I must say that I do not mind being the victim of my own rule now and then. It serves to make the point.

Mr. President, I call up at this time amendment No. 519 offered by me with the cosponsorship of the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. BAYH), the Senator from North Dakota (Mr. BURDICK), the Senator from Kentucky (Mr. COOK), the Senator from Connecticut (Mr. DODD), the Senator from Hawaii (Mr. FONG), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Maryland (Mr. MATHIAS), and the Senator from Maryland (Mr. TYDINGS), and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

Strike out all after the enacting clause, and insert in lieu thereof the following:

"That this Act may be cited as the 'Voting Rights Act Amendments of 1970'.

"Sec. 2. The Voting Rights Act of 1965 (79 Stat. 437; 42 U.S.C. 1973 et seq.) is amended by inserting therein, immediately after the first section thereof, the following title caption:

"TITLE I—VOTING RIGHTS

"Sec. 3. Section 4(a) of the Voting Rights Act of 1965 (79 Stat. 438; 42 U.S.C. 1973b) is amended by striking out the words 'five years' wherever they appear in the first and third paragraphs thereof, and inserting in lieu thereof the words 'ten years'.

"SEC. 4. The Voting Rights Act of 1965 (79 Stat. 437; 42 U.S.C. 1973 et seq.) is amended by adding at the end thereof the following new title:

"TITLE II—SUPPLEMENTAL PROVISIONS

"APPLICATION OF PROHIBITION TO OTHER STATES

"Sec. 201. (a) Prior to August 6, 1975, no citizen shall be denied, because of his failure to comply with any test or device, the right to vote in any Federal, State, or local election conducted in any State or political subdivision of a State as to which the provisions of section 4(a) of this Act are not in effect by reason of determinations made under section 4(b) of this Act.

"(b) As used in this section, the term "test or device" means any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class.

"RESIDENCE REQUIREMENTS FOR VOTING

"Sec. 202. (a) No citizen of the United States who is otherwise qualified to vote in any State or political subdivision in any election for President and Vice President of the United States shall be denied the right to vote in any such election for failure to comply with a residence or registration requirement if he has resided in that State or political subdivision since the 1st day of September next preceding the election and has complied with the requirements of registration to the extent that they provide for registration after that date.

"(b) If such citizen has begun residence in a State or political subdivision after the 1st day of September next preceding an election for President and Vice President of the United States and does not satisfy the residence requirements of that State or political subdivision, he shall be allowed to vote in such election (1) in person in the State or political subdivision in which he resided on the last day of August of that year if he had satisfied, as of the date of his change of residence, the requirements to vote in that State or political subdivision; or (2) by absentee ballot in the State or political subdivision in which he resided on the last day of August of that year if he satisfies, but for his non-resident status and the reason for his absence, the requirements for absentee voting in that State or political subdivision.

"(c) No citizen of the United States who is otherwise qualified to vote by absentee ballot in any State or political subdivision in any election for President and Vice President of the United States shall be denied the right to vote in such election because of any requirement of registration that does not include a provision for absentee registration.

"(d) As used in this section, the term "State" includes the District of Columbia.

"JUDICIAL RELIEF

"Sec. 203. Whenever the Attorney General has reason to believe that a State or political subdivision (a) has enacted or is seeking to administer any test or device as a prerequisite to voting in violation of the prohibition contained in section 201, or (b) undertakes to deny the right to vote in any election in violation of section 202, he may institute for the United States, or in the name of the United States, an action in a district court of the United States, in accordance with sections 1391 through 1393 of title 28, United States Code, for a restraining order, a preliminary or permanent injunction, or such other order as he deems appropriate. An action under this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2282

of title 28 of the United States Code and any appeal shall be to the Supreme Court.

"PENALTY

"Sec. 204. Whoever shall deprive or attempt to deprive any person of any right secured by section 201 or 202 of this title shall be fined not more than \$5,000, or imprisoned not more than five years, or both.

"SEPARABILITY

"Sec. 205. If any provision of this title or the application of any provision thereof to any person or circumstance is judicially determined to be invalid, the remainder of this Act or the application of such provision to other persons or circumstances shall not be affected by such determination.

"Amend the title so as to read: 'An Act to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests, and for other purposes.'

Mr. SCOTT. Mr. President, the joint views of 10 members of the Senate Judiciary Committee have been prepared and are on the desk of each Senator.

I ask unanimous consent that the joint views of 10 members of the Judiciary Committee on extending the Voting Rights Act be printed at this point in the RECORD.

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

JOINT VIEW OF 10 MEMBERS OF THE JUDICIARY COMMITTEE RELATING TO EXTENSION OF THE VOTING RIGHTS ACT OF 1965

The undersigned ten members of the committee submit the following views in support of an amendment, Amdt. No. 519, in the nature of a substitute, to H.R. 4249. The amendment would extend the Voting Rights Act of 1965 in its present form for five years. It would also add a separate title incorporating the two new features of H.R. 4249: suspension of literacy tests throughout the remainder of the country; and limitations on residence requirements in presidential elections.

INTRODUCTION

An amendment in the nature of a substitute to H.R. 4249 and cosponsored by each of the undersigned was introduced in the Senate, referred to the Judiciary Committee for consideration and placed before the Subcommittee on Constitutional Rights. No vote was had on this amendment, and therefore, no formal recommendation of the amendment was reported by the committee. Accordingly, by order of the Senate, agreed to December 18, 1969, the committee reported H.R. 4249, as referred, *without recommendation*. (As used hereinafter, unless otherwise noted, "H.R. 4249" refers to the bill passed by the House of Representatives and reported by this committee.)

However, in the hope and expectation that a joint statement of the views of a majority of the committee will be helpful, the undersigned submit this statement to express our recognition of the need for continuation of the Voting Rights Act of 1965 in a form which ensures that its safeguards remain intact and unemasculated.

These joint views include an analysis of the provisions of the amendment we have proposed and a statement of the fact which warrant its substitution for H.R. 4249, as reported by the committee.

The primary purpose of our proposal is to continue in full force and effect all the provisions of the Voting Rights Act of 1965 for an additional five years. We have also proposed new provisions similar to those in H.R. 4249, which will further enlarge protection of the franchise.

However, it is essential to avoid any question about the principal purpose now before us: the extension for an additional

five years of the provisions of the 1965 Act which have proven so effective. Absolutely nothing must be allowed to confuse that point—or to lay the groundwork for attempts to relitigate the critical provisions of the 1965 Act which the United States Supreme Court has already passed upon and approved.

If either the extension of the literacy test suspension nationwide or restrictions on residence requirements are woven into the present provisions of the Act as is the case with H.R. 4249, the courts would be faced with a completely new statute. This would risk litigation which might tie up the critical provisions of the present Act and, until reviewed by the Supreme Court, conceivably permit the reintroduction of literacy tests in those areas where they are presently suspended. We separate the provisions in order to ensure against this risk in every possible way.

Therefore, the amendment simply extends the 1965 Act, intact, for an additional five years, and then adds in a separate title the literacy test suspension in the remainder of the Nation as well as the restrictions on residence requirements for presidential elections. In this way, we accomplish uniform suspension of literacy tests nationwide, but do so in a manner which assures that no court test of the extension of the ban beyond the states and counties covered under section 4(a) of the 1965 Act could invalidate or even temporarily stay the effectiveness of the 1965 suspension. Enactment of a nationwide ban on the literacy tests and devices in place of the present section 4(a) of the Act runs this risk.

The Voting Rights Act of 1965 is a comprehensive measure designed to eradicate, at long last, widespread disenfranchisement on the basis of race in direct violation of the 15th Amendment. The Act has proved historically effective in making the command of the 15th Amendment a reality. But the task remains unfinished. It will not be completed, and hard won progress will be undone if essential safeguards of the Act are lost in August 1970, as would be the case under H.R. 4249. To change the terms of its successful operation—either by failing to extend it or by weakening it in any way—would be a serious blow in the continuing efforts to implement the promise of our Constitution.

COMMITTEE ACTION

On January 31, 1969, Senators Mathias, Fong and Scott introduced S. 818 which called for a simple five-year extension of the present Voting Rights Act. On April 29, 1969, Senator Hart and a bipartisan group of 33 other Senators introduced an omnibus civil rights bill, S. 2029, Title IV of which also provided for a five-year extension of the present Act. On June 19, 1969, a bipartisan group of 38 Senators introduced a bill, S. 2456, identical to S. 818. On June 30, 1969, the late Senator Dirksen offered S. 2507, whose provisions are identical to H.R. 4249, discussed below. All four measures were referred to the Judiciary Committee, and the Subcommittee on Constitutional Rights held joint hearings on them on July 9, 10, 11 and 30, 1969 ("Amendments to the Voting Rights Act of 1965," hearings before the Subcommittee on Constitutional Rights, Senate Committee on the Judiciary, 91st Cong., First Sess.).

On Wednesday, July 9, 1969, testimony and statements were received from Senators Scott and Mathias and from Commissioner Freeman of the Civil Rights Commission. All testified to the need for continuation of the 1965 Act as enacted. On July 10, 1969, Senator Schweiker submitted a statement urging extension of the Act, and Mr. Clarence Mitchell and Mr. Joseph L. Rauh appeared on behalf of the Leadership Conference on Civil Rights, representing over 125 organizations interested in civil rights. Commissioner Freeman, Mr. Mitchell and Mr. Rauh pre-

sented at length facts demonstrating the need for retention of the Act. They each also testified as to the manner in which the provisions of S. 2507—provisions identical to those in H.R. 4249 as reported by this committee—would weaken the federal government's ability to ensure in the covered areas that all persons are able to register and vote and have their votes counted without discrimination on account of race.

Further testimony was given by Mr. Warren Richardson, General Counsel to the Liberty Lobby.

On July 11, 1969, the subcommittee heard testimony from Mr. Lawrence Spelser on behalf of the American Civil Liberties Union also in favor of extending the provisions of the 1965 Act as enacted. The last witness, Attorney General John Mitchell, accompanied by Assistant Attorney General Jerris Leonard, testified on July 11 and July 30, 1969, in support of S. 2507.

On December 11, 1969, the House of Representatives passed H.R. 4249.* The bill was received in the Senate on December 12, 1969, and referred to the committee on December 16, 1969, with instructions under the following order:

"Mr. MANSFIELD. Mr. President, I ask unanimous consent that H.R. 4249 be referred to the Committee on the Judiciary with instructions to report back not later than March 1, 1970, and that at the conclusion of morning business on March 1, 1970, or the first legislative day thereafter, H.R. 4249 be made the pending business." (CONGRESSIONAL RECORD, vol. 115, pt. 29, p. 39335.)

The Subcommittee on Constitutional Rights then held further hearings on H.R. 4249 on February 18, 19, 24, 25 and 26, 1970. Senator Tydings and Mr. Clarence Mitchell both testified in favor of extending the 1965 Act on February 18. On February 19, Senator Goldwater testified in favor of abolishing residence requirements in presidential elections and submitted an analysis of its constitutionality. Mr. Edward T. Anderson of the Friends Committee on National Legislation and Reverend John M. Wells of the Joint Washington Office for Social Concern of the American Humanist Association, American Ethical Union, and Unitarian Universalist Association also testified.

On February 24 Professor Archibald Cox of Harvard Law School and Mr. Howard A. Glickstein, Staff Director of the Commission on Civil Rights, testified in favor of extension of the Act. Professor Cox also testified as to the constitutionality of restrictions on residence requirements in presidential elections and of nationwide suspension of literacy tests. Governor Lester G. Maddox of Georgia and Attorney General A. F. Summer of Mississippi testified in opposition to continuing the Act.

On February 25, Mr. Edward T. Anderson testified further. Mr. Vernon E. Jordan, Jr., Director, Voter Education Project, Southern Regional Council, Inc. and Dr. Aaron Henry, Board of Christian Social Concerns of the United Methodist Church, described in vivid detail the efforts of Negroes to register under the Voting Rights Act and the tactics employed to thwart them. Sheldon H. Elsen, Esq., Chairman of the Committee on Federal legislation of the Association of the Bar of the City of New York, and John D. Feerick, Esq., Chairman of the Subcommittee on the Election Laws, Committee on Federal Legislation of the Association of the Bar of the City of New York, also testified.

*It also should be noted that on May 14 and 15, June 19 and 26, and July 1, 1969, the House Committee on the Judiciary held extensive hearing on continuation of the Voting Rights Act and on related proposals. ("Voting Rights Act Extension," hearings before Subcommittee No. 5, House Committee on the Judiciary, 91st Cong., First Sess., serial No. 3.) (Hereinafter cited "House Hearings.")

Finally, on February 26, 1970, Mr. David Norman, Deputy Assistant Attorney General of the Civil Rights Division, Department of Justice, testified. Mr. Norman testified in favor of extending the suspension of literacy tests nationwide and removing residence restrictions on voting in presidential elections. He also discussed the effectiveness of section 5 of the Voting Rights Act of 1965.

On February 26, the subcommittee failed to report any bill for lack of a quorum. The Committee on the Judiciary, as noted above, failed to vote on the amendment offered by the undersigned and, therefore, has reported H.R. 4249 without recommendation.

HISTORICAL REVIEW

The 1965 Voting Rights Act

The main provisions of the Voting Rights Act of 1965 were carefully designed to prevent certain states of political subdivisions from continuing their well-documented practices of systematically denying the right to vote on the basis of race. (The full text of the 1965 Voting Rights Act is annexed as Appendix A.) If a state or subdivision is determined to be subject to the automatic or "trigger" provisions of sections 4, 5 and 6 of the Act, four basic consequences follow:

First, it may not use any test or device to limit voting eligibility.

Second, the Attorney General may, under specified circumstances, send in federal examiners to list eligible but non-registered voters, who are then fully qualified to vote.

Third, the Attorney General may send federal observers to any county designated for examiners to observe the polling places and the counting of the votes.

Fourth, the Act prohibits the state or political subdivision from applying new voting qualification or procedure without obtaining either the acquiescence of the Attorney General or a declaratory judgment from the United States District Court for the District of Columbia that the new practice does not have a discriminatory purpose and will not have a discriminatory effect. The burden of proving the nondiscriminatory purpose and effect is on the governmental body seeking exemption.

The Act contains an escape clause. By section 4(a) a state or political subdivision can obtain a declaratory judgment removing itself from coverage by showing that for the preceding five years it has not used a literacy test or other device to deny the right to vote on account of race.

The Civil Rights Commission has described the operation and effect of these provisions which apply automatically to these states as follows:

"VOTER REQUIREMENTS OUTLAWED BY THE ACT

"No State or political subdivision (counties, municipalities and parishes) covered by the Voting Rights Act may require the use of any test or device as a prerequisite for registration or voting.

"Tests or devices included in this Act are those which require:

"1. A demonstration of the ability to read, write, understand or interpret any given material.

"2. A demonstration of any educational achievement or knowledge of any particular subject.

"3. Proof of good moral character.

"4. Proof of qualifications through a procedure in which another person (such as an individual already registered) must vouch for the prospective voter.

"Coverage

"The Voting Rights Act of 1965 states that no person shall be denied the right to vote in any Federal, State or local election (including primaries) for failure to pass a test if he lives in a State or political subdivision which:

"1. Maintained a test or device as a pre-

requisite to registration or voting as of November 1, 1964—and

"2. Had a total voting age population of which less than 50 percent were registered or actually voted in the 1964 Presidential election.

"If the above two factors are present, the States or political subdivision is automatically covered by the 1965 Act. If an entire State meets these qualifications, all of its counties come under the provisions of the Act. If only one county in a State meets them, the single county is subject to the requirements of the law.

"States covered by the Act include Alabama, Alaska, Georgia, Louisiana, Mississippi, South Carolina, Virginia, and approximately 26 counties in North Carolina.

"Cessation of Coverage. A State or political subdivision may be removed from coverage by filing a suit in a three-judge District Court for the District of Columbia. The State or political subdivision must convince the court that no test or device has been used for the purpose or with the effect of denying the right to vote because of race or color during the five years preceding the filing of the suit.

"However, if there has been a previous court judgment against a State or political subdivision determining that tests or devices have been used to deny the right to vote, the State or political subdivision must wait five years before it can obtain an order from the District Court for the District of Columbia removing it from the coverage of the Act.

"A judgment may be obtained more quickly if the Attorney General advises the court that he believes that the tests have not been used to discriminate on the basis of race or color during the five years preceding the filing of the action. He may also ask the court to reconsider its decision any time within five years after judgment.

"Changes in Voting Laws. When a State or political subdivision covered by the Act seeks to change its voting qualifications or procedures from those in effect on November 1, 1964, it must either obtain the approval of the U.S. Attorney General or initiate a Federal Court suit. If the Attorney General objects to these changes, or if they have not been submitted to him for his approval, the new laws may not be enforced until the District Court for the District of Columbia rules that the changes will not have the purpose or the effect of denying the right to vote because of the race or color of any person.

"Federal examiners

"Once it is determined that a political subdivision is covered by the Act, the U.S. Attorney General may direct the U.S. Civil Service Commission to appoint Federal examiners to list voters if:

"1. He has received twenty meritorious written complaints alleging voter discrimination, or

"2. He believes that the appointment of examiners is necessary to enforce the guarantees of the Fifteenth Amendment.

"The times, places and procedures for listing will be established by the Civil Service Commission.

"Authority of the Examiners. The Federal examiners will list (that is, declare eligible and entitled to vote) those who satisfy State qualifications that have not been suspended by the Voting Rights Act. Examples of valid qualifications would be those of age and residence.

"The examiners will prepare a list of qualified voters and send the list each month to State authorities who must register them—that is, place their names in the official voting records. This list must be available for public inspection. Each person on the examiner's list will be issued a certificate by the examiners as evidence of eligibility to vote in any Federal, State or local election.

"No person listed by the examiner will be

entitled to vote in any election unless his name has been sent to local election officials at least 45 days before that election thereby allowing the State election machinery to run without complication.

"Enforcement of Action by Federal Examiners. At the request of the Attorney General the Civil Service Commission may appoint poll watchers in counties where Federal Examiners are already serving to observe whether all eligible persons are allowed to vote and whether all ballots are accurately tabulated.

"If anyone who is properly listed or registered is not permitted to vote in any political subdivision where examiners are serving, a complaint may be made to the examiners of this denial within 48 hours after the polls close. If the examiner believes that the complaint has merit, he must inform the Attorney General immediately. The Attorney General may seek a district court order that provides for the casting of the ballot and suspends the election results until the vote is included in the final count.

"Challenge of Listed Persons. A formal objection challenging the qualifications of a person listed by the Federal examiner may be filed (at a place to be designated by the Civil Service Commission) within ten days after the list of qualified voters has been made public and must be supported by at least two affidavits. The validity of the challenge will be determined within fifteen days after filing by a hearing officer appointed by the Civil Service Commission. The U.S. Court of Appeals may review decisions of the hearing officer.

"Until the final court review is completed, any person listed by the examiner is still eligible and must be permitted to vote. If a challenge is successful, the name of the registrant will be removed from the examiner's list.

"Withdrawal of Federal Examiners. Examiners may be withdrawn from a political subdivision when the names of all persons listed by the examiners have been placed in the official records and when there is no reason to believe that persons in the subdivision will be prevented from voting.

"The removal may be accomplished by action of:

"1. The Civil Service Commission after it receives notification from the U.S. Attorney General, or

"2. The District Court for the District of Columbia in a suit brought by a political subdivision after the Director of the Census has determined that more than 50 percent of the nonwhite voting age population in the subdivision is registered to vote.

"A political subdivision may petition the U.S. Attorney General to end listing procedures and to request that the Director of the Census conduct a survey to determine whether more than 50 percent of the nonwhite voting age population is registered.

"Poll taxes

"The Act contains a Congressional finding that the right to vote has been denied or abridged by the requirement of the payment of a poll tax as a condition to voting.

"The U.S. Attorney General is directed to institute suits against Alabama, Mississippi, Texas and Virginia which require the payment of poll taxes in order to determine if such taxes violate the Constitution. While a suit is pending, or upon a finding that the poll tax is constitutional, persons registered or listed for the first time in areas covered by the Act need only pay the tax for the current year. The poll tax may be paid up to 45 days prior to an election regardless of the timeliness of the payment under State law.

"Voting suits

"The Voting Rights Act of 1965 gives new enforcement powers to the courts in voting cases. When the court finds that there has

been a denial of the right to vote in a suit brought by the U.S. Attorney General, the court must:

"1. Authorize the appointment of examiners by the Civil Service Commission unless denials of the right to vote have been few in number, they have been corrected by State or local action, and there is no probability that they will reoccur.

"2. Suspend the use of tests or devices in an area where it has been proved that at least one such requirement has been utilized to deny the right to vote because of race or color.

"When examiners have been authorized by court order, they may be removed by an order of the authorizing court.

"Language literacy

"If a person residing in a State where tests or devices have not been suspended has completed at least six grades in an 'American-flag' school (a school in the United States or its territories), his inability to speak the English language shall not be the basis for denying him the right to vote. For example, a person who completed six grades of school in the Commonwealth of Puerto Rico but who now resides on the mainland of the United States would satisfy literacy requirements.

"Criminal and civil penalties

"Public officials or private individuals who deny persons the right to vote guaranteed by the Voting Rights Act of 1965 or anyone who attempts to or intimidates, threatens, or coerces a person from voting are subject to criminal penalties. It is also made a crime to attempt to or to intimidate, threaten or coerce anyone who urges or aids any person to vote. Criminal penalties are provided for applicants who give false information about their eligibility to vote or who accept payment to register or vote in a Federal election. The U.S. Attorney General is also authorized to bring action for injunctive relief to restrain violations of the Act."

An understanding of the "preclearance" safeguards in section 5 is particularly important for the present efforts to extend the Act. Under section 5, if a state or a political subdivision of a state covered by section 4 of the Act enacts or seeks to administer any voting qualifications, standards, practices or procedures not in effect in November 1964, such a change may not be enforced unless it has been submitted to the Attorney General and the latter has failed to object to it within 60 days or unless the United States District Court for the District of Columbia declares that the change does not have the purpose and effect of denying or abridging the right of vote on account of race or color. If the enacting or administering state (or subdivision) submits a change to the Attorney General and he disapproves of it, his decision may be challenged by a lawsuit in the District of Columbia District Court. A state or subdivision may also choose to test a statute directly in that court, without first submitting it to the Attorney General. A change covered by section 5, however, may not be enforced unless it has been tested by one of the above methods.

This section, in effect, freezes election procedures in the covered areas unless the changes can be shown to be nondiscriminatory.

It is equally important to emphasize that the remaining areas of the country are also precluded under the existing Act from using literacy tests or devices or any other practices and procedures in a discriminatory manner.

Section 3 of the Voting Rights Act provides that, in any action brought by the Attorney General to enforce the 15th Amendment, he may seek judicial relief which includes suspension of literacy tests, use of federal examiners, and determination of the validity of any new voting law or procedure. If the court finds that 15th Amendment

violations justifying equitable relief have occurred, it may authorize appointment of federal voting examiners. Section 3 also directs the court to suspend the use of tests and devices where they have been used for the purpose or with the effect of denying or abridging the right to vote on account of race or color. The court retains jurisdiction of such case for as long as it deems necessary and during such period prohibits the use of any new voting qualification or prerequisite to voting or any standard, practice or procedure different from that in force at the time suit was commenced, unless the court finds that it does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color or unless the state or subdivision has submitted it to the United States Attorney General and he has interposed no objection to the new requirement within sixty days.

Thus, the same remedies made available by sections 4, 5 and 6 in those areas of the country subject to the trigger provisions of section 4 of the 1965 Act—suspension of tests, appointment of federal examiners to list qualified voters, and the prohibition of new voting requirements, practices or procedures unless approved—are also available, if needed, in the remaining portions of the country.

Constitutionality

The Voting Rights Act of 1965 is constitutional. This issue is now settled. The Supreme Court has had occasion to review each of the major provisions of the Act, and in each instance the constitutionality of the legislation was sustained. See *South Carolina v. Katzenbach*, 383 U.S. 301 (1966); *Katzenbach v. Morgan*, 384 U.S. 641 (1966) and *Allen v. Board of Election*, 393 U.S. 544 (1969).

The *Allen* decision on March 3, 1969, involved four cases in which the court upheld the critical preclearance provisions required by section 5 for new voting qualifications or procedures.

WHY THE 1965 ACT WAS NECESSARY

When it enacted the 1965 Voting Rights Act, Congress was confronted by a long-standing and pervasive evil, which had been perpetuated in the South for almost one hundred years by constant and ingenious defiance of the Constitution. Three earlier enactments in 1957, 1960 and 1964 had failed to alleviate blatant discrimination in the electoral process in certain areas, primarily in the South. The 1960 and 1964 acts modified and attempted to strengthen the 1957 Act which empowered the Attorney General of the United States to institute lawsuits to protect the right to vote.

But this case-by-case approach was met by massive state and local resistance. Certain States initiated evasive tactics and new procedures designed to block gains in this area. Most common among these procedures was the racially discriminatory use of literacy tests. This State and local resistance, coupled with the sluggish judicial process permitted only meager gains in Negro voter registration. For example, in Mississippi registration increased from 4.4 percent in 1954 to only 6.7 percent by 1964. Seventy percent of Mississippi's white voting age population was registered as compared to this 6.7 percent figure for non-whites. Voting suits brought by the Department of Justice between 1957 and 1965 added only slightly more than 36,000 Negro registrants throughout the South.

The failure of piecemeal litigation to cure the problem necessitated enactment of a law aimed specifically at these delinquent jurisdictions.

The long record of discriminatory statutes, discriminatory enforcement, and intimidation which necessitated the enactment of the 1965 Voting Rights Act is all too familiar. It was told many times during the long legislative history of the 1965 Voting Rights Act.

See *South Carolina v. Katzenbach*, 383 U.S., 309-315 (1965) (summarizing "the majority reports of the House and Senate Committees, which document in considerable detail the factual basis for these reactions by Congress. See H.R. Rep. No. 439, 89th Cong., 1st Sess., 8-16 (hereinafter cited as House Report); S. Rep. No. 162, pt. 3, 89th Cong., 1st Sess., 3-16 (hereinafter cited as Senate Report)").

NECESSITY OF EXTENDING THE 1965 ACT
INTACT

During the hearings on the Voting Rights Act before the Senate Judiciary Committee last July and in February of this year, as well as the hearings before the House Committee on the Judiciary during May, June and July of last year, extensive facts were presented which compel the conclusion that the Voting Rights Act of 1965 must be extended for an additional five years. The Voting Rights Act of 1965 has been the most effective civil rights legislation ever enacted by the Congress. It is the only federal legislation that has proven effective in implementing the 15th Amendment and making real the rights to register and vote which that Amendment secures on paper. The success of the 1965 Act is directly traceable to its distinguishing feature in comparison to prior civil rights legislation: its immediate and automatic application, without the need for lengthy and repeated litigation in jurisdictions which fall within the formula provided in section 4 of the Act. The automatic application of sections 4 and 5 works. Negroes have registered and voted in record numbers in areas where before 1965 they had been systematically denied the franchise. Discriminatory devices to deny the franchise have been struck down or deferred.

The following percentages compiled by the U.S. Civil Rights Commission and the Southern Regional Council were accumulated during the late summer of 1968 in the five states where federal examiners have been used. They do not represent the final registration figures for the November 1968 elections, but the difference was not expected to be large.

In Alabama, the nonwhite population registered to vote increased from 19.3 percent in 1964 to 56.7 percent in the late summer of 1968; in Georgia, from 27.4 to 56.1 percent; in Louisiana, from 31.6 to 59.3 percent; in Mississippi, from 6.7 to 59.9 percent; in South Carolina, from 37.3 to 50.8 percent.

In addition to the large numbers of black citizens registering and voting, many are now running for office in Southern states to help assure adequate representation of all interests.

While progress has been significant, it should not obscure the pressing needs which remain. Negro registration is still well below that of whites in any areas covered by the Act—and less than one-half in many counties. The continuing resistance to equal voting rights and risk of back-sliding should the protections of the Act be weakened are amply demonstrated in the instances in which the Attorney General has found it necessary to send in observers to assure that all persons were able to vote and have their votes counted regardless of race and to initiate legal actions to set aside elections and voting changes infected by racial discrimination.

If the 1965 Act is not extended, states and counties presently covered by the Act will be able to petition the court for their removal in August 1970—five years after the statute's enactment. To obtain such a judgment, the state or subdivision must demonstrate that such tests have not been used for the previous five years. Where section 4(a) of the Act has been obeyed, no tests have been used for the past five years, so that these jurisdictions could then escape the controls of sections 4 and 5 of the Act. That means that sections 4 and 5, which have made the

Voting Rights Act of 1965 so successful, will cease to be effective this year and we would again be relegated to piecemeal judicial remedies which proved so unsuccessful in the past in keeping up with a rapid succession of ingenious roadblocks.

When Congress originally considered the bill which became the Voting Rights Act of 1965, sections 4 and 5 were to remain in effect for a period of ten years. Although majority support for the measure was ultimately obtained in both houses by reducing this period to five years, no evidence was presented at that time that the five-year period would prove sufficient to eradicate 350 years of systematic discrimination. We, too, had hoped that a five-year period might be sufficient, but that time is now running out and the fact remains that large numbers of black people are still not registered and voting in the South because of present discriminatory practices or the aftereffect of past ones. The last five years has provided ample evidence that if these key provisions of the Act are permitted to expire, the procedural protection for voter registration will stop, thereby freeing—indeed, inviting—the resurgence of the discriminatory forces which operated so effectively prior to enactment of the law. Although we have progressed, more time is needed to accomplish what finally must be done to implement the 15th Amendment, by preserving the only voting rights law that has really worked.

Need to continue section 4

Section 4(a) suspends voting tests and devices in the areas to which it is applicable. These laws, which were systematically abused to deny the rights of Negro voters, are still on the books in most of these jurisdictions. They can be reinstated, or passed again if they were rescinded. They could then be used to prevent the further registration of other Negro citizens. By requiring re-registration, these laws could even be abused to disenfranchise those who have already become registered voters under the Act.

While a great many citizens in the South have shown a commendable effort to comply with and help implement the Voting Rights Act of 1965, the intent and desire shown by others to circumvent the Act indicates that the dangers which necessitated the statute in the first place have not been eliminated. A wide range of obstructionist weapons have been experienced. Decided court cases demonstrate that boundary lines have been gerrymandered, elections have been switched to an at-large basis, counties have been consolidated, elective offices have been abolished where Negroes had a chance of winning, the appointment process has been substituted for the elective process, election officials have withheld the necessary information for voting and running for office, and both physical and economic intimidation have been employed.

Need to continue section 5

The omission of the present section 5 of the Voting Rights Act from any extension of that Act would be fatal. It was for this omission that Father Hesburgh, Chairman of the Commission on Civil Rights, criticized H.R. 4249 as being "much weaker" than a simple extension of the Voting Rights Act of 1965.

Father Hesburgh has said that repeal of section 5 in its present form ". . . is in no sense an advance in protection of the voting rights of American citizens. It is a distinct retreat. It is an open invitation to those states which denied the vote to minority citizens in the past to resume doing so in the future through insertion of disingenuous technicalities and changes in their election laws. . . . [It] would turn back the clock to 1957. . . . Now is not the time to gut one of the Act's key provisions." (House Hearings at 299)

This also was the position: of the House

Judiciary Committee; of a bipartisan group of 38 Senators who sponsored legislation to extend the 1965 Act for five additional years; of the Leadership Conference on Civil Rights; and of all other civil rights organizations. All agree that, to have a complete and effective guarantee of the 15th Amendment, it is essential that section 5 and its triggering provisions be extended for another five years.

Mr. Howard A. Glickstein, the Staff Director of the United States Commission on Civil Rights, has described concretely why the record of the last five years requires retention of the preclearance provisions of section 5:

"In our earlier testimony, we briefly explained why Section 5 of the Act should be retained in its present form. This time, we would like to explain more fully why that section is so crucial—partly because there seems to be some confusion concerning what that section does and partly because the threat of it being repealed has been made more serious by passage of H.R. 4249.

"The Supreme Court in *South Carolina v. Katzenbach* concluded:

"Congress knew that some of the States covered by 4(b) of the Act had resorted to the extraordinary stratagem of contriving new rules of various kinds for the sole purpose of perpetuating voting discrimination in the face of adverse federal decrees. Congress had reason to suppose that these States might try similar maneuvers in the future, in order to evade the remedies for voting discrimination contained in the Act itself."

"The Voting Rights Act of 1965 was designed to end for once and all those practices which have for decades deprived Negro citizens of their vote. The pre-enforcement submission requirement of Section 5 was compelled by their tendency to change forms without changing purpose.

"Since its enactment, Section 5 has been interpreted by the Supreme Court to cover any State enactment which alters election laws in even a minor way.⁵ Based on the Statute's legislative history, the Court concluded that 'the Voting Rights Act was aimed at the subtle, as well as the obvious State regulations which have the effect of denying citizens their right to vote because of race.'⁶ Thus, the statute was held to cover changes in election laws which permit the election of county officers at large instead of on a district basis, which provide for the appointment of a previously elective official, which change the requirements for independent candidates running in elections, and which modify rules on assisting disabled voters.

"A few illustrations of how the changes just described can be used to impair Negro voting strength will shed light on the need for a remedy such as Section 5. For example, in 1968 Louisiana passed a law permitting elections for police juries to be conducted on an at large basis in each Louisiana parish. Before that enactment, police juries were selected by subdivisions of parishes called wards. In 109 wards, Negroes were in the majority, according to the 1960 Census, while Negroes only constituted the majority of voters in five parishes. Thus, a change from ward to at large voting would have the effect of diluting the actual or potential voting power of the Negro inhabitants. The Attorney General, in objecting to the change in September 1969, referred to the decision of the Supreme Court in *Allen*, in which the Court stated:

"The right to vote can be affected by a dilution of voting power as well as by an absolute prohibition on casting a ballot."⁷

"A statute which gives election officials undue discretion can also open the door to discrimination. A 1968 Georgia law was dis-

approved by the Attorney General because it required persons who hold election and registration offices to be 'judicious, intelligent and upright electors.' The Attorney General characterized this standard as 'vague and subjective.'

"Another example of misuse of election laws occurred in 1966 when the Mississippi legislature passed a resolution submitting to the voters a constitutional amendment to permit the legislature by two-thirds vote to consolidate adjoining counties. Opponents of the resolution charged that it was designed to permit consolidation of counties heavily populated by Negroes with predominantly white counties: 'All they're trying to do is avoid a few Negro votes' charged Senator E. K. Collins of predominantly white Jones County.⁹ Senator Ben Hilburn of predominantly white Oktibehah County, who also opposed the measure, commented: 'We get so concerned because some Negroes are voting in a few counties, we are going to disrupt our entire institutions of government.'¹⁰ The constitutional amendment approved on the basis of this resolution has not yet been implemented and therefore a suit to enjoin its enforcement failed. A three judge court held, however, that it came within the purview of Section 5.¹¹

"There is nothing to indicate that the above discriminatory practices are lessening. There is evidence that similar practices are continuing in the South. In July 1968, Anniston, Alabama (the population of which is about 27 percent black) changed its municipal elections from election by wards to election at large. The city was divided into five wards, each to be represented by one councilman. Although each councilman must be a resident of his ward, he is elected by the city at large. Since the population of two of the five wards is predominantly black, Negroes believe that the requirement of at-large elections was designed to prevent them from electing their own councilman.¹²

"Another recent Alabama enactment objected to by the Attorney General required a voter to sign a poll list at the voting machine before he would be allowed to enter the machine to vote. This law, passed in 1969, would have the same effect as reinstatement of a literacy test and clearly violated the Voting Rights Act of 1965.¹³

"To give another example, a bill was recently introduced before the General Assembly of Mississippi which would change the qualifications of candidates for school boards. The change would require that only high school graduates could run for these offices.¹⁴ Since in Mississippi a higher percentage of whites than blacks are high school graduates, this law could keep blacks from controlling school boards in areas in which they outnumber whites in registered voters."

This record of continuing desire and effort to nullify the gains in Negro registration by adopting election laws and procedures that would render Negro votes ineffective is reported in fuller detail by the U.S. Commission on Civil Rights in their Study, "Political Participation," published in May of 1968. If it had not been for section 5 of the present Act, there is no telling to what extent the states and communities covered might have legislated and manipulated to continue their historical practice of excluding Negroes from the Southern political process.

We also take note of the recent decision of the Supreme Court in *Allen v. Board of Elections*, in which the Court discussed the history of the enforcement of section 5 and clarified its scope. The decision underscores the advantage section 5 produces in placing the burden of proof on a covered jurisdiction to show that a new voting law or procedure does not have the purpose and will not have

the effect of discriminating on the basis of race or color. Also, the Court's decision makes clear that private persons have authority to challenge the enforcement of changed voting practices or procedures pursuant to section 5 on the grounds that such changes have not been submitted in accordance with the procedures of the Act.

If, as we have urged, it is imperative that the protection of the present section 4 and 5 of the Act be retained, then it necessarily follows that the reference to statistics of the 1964 election must also be retained. The 50 percent level, measured as of November 1, 1964, was deemed a valid test for determining that abusive practices necessitated the automatic powers of sections 4, 5 and 6. It was not intended as a measure of an adequate level of political enfranchisement, but as a reasonable basis for the presumption of the existence of official actions to deny or abridge the right to vote on account of race or color. Nor did Congress find, that, in the first few years following enactment of the statute, this same percentage would also adequately serve as a criterion for determining when the discriminatory efforts had been sufficiently eradicated to warrant removing the safeguards which made the improvement possible. The 1968 election turnout reflects the success and impact of the federal presence in the covered states where tests were suspended. Federal examiners and observers had been appointed and election law changes were subject to federal review. The numerous efforts to circumvent sections 4 and 5 noted above offer little basis for confidence that this progress will not be undone if the 1968 voting statistics are employed, let alone that the momentum in these areas will continue.

Upon the record developed in the subcommittee's hearings and in the hearings in the House of Representatives, the history of litigation over the past four years and reports of the U.S. Commission on Civil Rights, we conclude that it is essential to continue for an additional five years all the foregoing provisions of the Act in full force and effect in order to safeguard the gains in Negro voter registration thus far achieved, and to prevent future infringements of voting rights based on race or color.

NEW PROVISIONS OF TITLE II

For the reasons just noted, our main concern is to extend undiminished the Voting Rights Act of 1965. In addition, however, our amendment incorporates the two important new steps of H.R. 4249. First, the amendment would extend the suspension of literacy tests and of other tests and devices to all states of the Nation.

Even though these other areas have no recent history of discriminatory abuses like that which prompted enactment of the 1965 Act, this extension is justified for two reasons: (1) because of the discriminatory impact which the requirement of literacy as a precondition to voting may have on minority groups and the poor; and (2) because there is insufficient relationship between literacy and responsible, interested voting to justify such a broad restriction of the franchise.

In the subcommittee hearings, the Commission on Civil Rights submitted a memorandum based on a study made by the Bureau of the Census, which suggests that the suspension of literacy tests in all States will result in significant increases in registration of educationally disadvantaged blacks and whites, Mexican Americans, Puerto Ricans, Cuban Americans and other members of the Spanish-speaking and Spanish-surname community in America, and American Indians. The report of the Commission on Civil Rights also suggests that literacy tests in all states deprive a greater proportion of minority citizens of the right to vote than of whites.

Professed state interests which are advanced to support restrictions on the franchise require close scrutiny. And, as Father Hesburgh, Chairman of the Civil Rights Commission, stated in his letter of March 28, 1969, to the President: "the lives and fortunes of illiterates are no less affected by the actions of local, State and Federal governments than those of their more fortunate brethren. . . . Today, with television so widely available," he continued, "it is possible for one with little formal education to be a well-informed and intelligent member of the electorate." Thus, literacy tests not only abridge the right to suffrage on account of race or color, but also constitute an unreasonable classification against educationally disadvantaged persons in violation of the equal protection clause of the 14th Amendment.

Second, we propose to limit residence requirements in presidential elections in precisely the same manner as that provided for in H.R. 4249. The amendment, like H.R. 4249, would establish uniform maximum residence requirements for such elections.

The main rationale for a residence requirement in statewide or local elections—to ensure that the new resident has sufficient time to familiarize himself with state or local issues—has little relevance to presidential elections because the issues tend to be nationwide in scope and receive nationwide dissemination by the communications media.

In our highly mobile and transient society, no person should be denied the right to vote for President if he has resided in a state or county since September 1 of the election year. Under the amendment, persons moving after September 1, who cannot satisfy the residence requirement of the new state or county, would be permitted to vote in the presidential election, in person or by absentee ballot.

This proposal would also authorize the Attorney General to seek judicial relief against any abridgment of these residence rights.

ANALYSIS OF THE BILL

The amendment cosponsored by the undersigned is designed to be a complete substitute for H.R. 4249, the bill reported by the committee. Set out below is the complete text of this amendment, in the nature of a substitute, followed by a section by section analysis.

H.R. 4249

AMENDMENTS (IN THE NATURE OF A SUBSTITUTE)

Intended to be proposed by Mr. Scott (for himself, Mr. Hart, Mr. Bayh, Mr. Burdick, Mr. Cook, Mr. Dodd, Mr. Fong, Mr. Kennedy, Mr. Mathias, and Mr. Tydings) to H.R. 4249, an Act to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices, viz: Strike out all after the enacting clause, and insert in lieu thereof the following:

"That this Act may be cited as the 'Voting Rights Act Amendments of 1970.'

"Sec. 2. The Voting Rights Act of 1965 (79 Stat. 437; 42 U.S.C. 1973 et seq.) is amended by inserting therein, immediately after the first section thereof, the following title caption:

"TITLE I—VOTING RIGHTS"

"Sec. 3. Section 4(a) of the Voting Rights Act of 1965 (79 Stat. 438; 42 U.S.C. 1973b) is amended by striking out the words 'five years' wherever they appear in the first and third paragraphs thereof, and inserting in lieu thereof the words 'ten years.'

"Sec. 4. The Voting Rights Act of 1965 (79 Stat. 437; 42 U.S.C. 1973 et seq.) is amended by adding at the end thereof the following new title:

Footnotes at end of article.

* TITLE II—SUPPLEMENTAL PROVISIONS

“APPLICATION OF PROHIBITION TO OTHER STATES

“Sec. 201. (a) Prior to August 6, 1975, no citizen shall be denied, because of his failure to comply with any test or device, the right to vote in any Federal, State or local election conducted in any State or political subdivision of a State as to which the provisions of section 4 (a) of this Act are not in effect by reason of determinations made under section 4 (b) of this Act.

“(b) As used in this section, the term ‘test or device’ means any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class.

“RESIDENCE REQUIREMENTS FOR VOTING

“Sec. 202 (a) No citizen of the United States who is otherwise qualified to vote in any State or political subdivision in any election for President and Vice President of the United States shall be denied the right to vote in any such election for failure to comply with a residence or registration requirement if he has resided in that State or political subdivision since the 1st day of September next preceding the election and has complied with the requirements of registration to the extent that they provide for registration after that date.

“(b) If such citizen has begun residence in a State or political subdivision after the 1st day of September next preceding an election for President and Vice President of the United States and does not satisfy the residence requirements of that State or political subdivision, he shall be allowed to vote in such election: (1) in person in the State or political subdivision in which he resided on the last day of August of that year if he had satisfied, as of the date of his change of residence, the requirements to vote in that State or political subdivision; or (2) by absentee ballot in the State or political subdivision in which he resided on the last day of August of that year if he satisfies, but for his nonresident status and the reason for his absence, the requirements for absentee voting in that State or political subdivision.

“(c) No citizen of the United States who is otherwise qualified to vote by absentee ballot in any State or political subdivision in any election for President and Vice President of the United States shall be denied the right to vote in such election because of any requirement of registration that does not include a provision for absentee registration.

“(d) As used in this section, the term ‘State’ includes the District of Columbia.

“JUDICIAL RELIEF

“Sec. 203. Whenever the Attorney General has reason to believe that a State or political subdivision (a) has enacted or is seeking to administer any test or device as a prerequisite to voting in violation of the prohibition contained in section 201, or (b) undertakes to deny the right to vote in any election in violation of section 202, he may institute for the United States, or in the name of the United States, an action in a district court of the United States, in accordance with sections 1391 through 1393 of title 28, United States Code, for a restraining order, a preliminary or permanent injunction, or such other order as he deems appropriate. An action under this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2282 of title 28 of the United States Code and any appeal shall be to the Supreme Court.

“PENALTY

“Sec. 204. Whoever shall deprive or attempt to deprive any person of any right secured by section 201 or 202 of this title shall be fined not more than \$5,000, or imprisoned not more than five years, or both.

“SEPARABILITY

“Sec. 205. If any provision of this title or the application of any provision thereof to any person or circumstance is judicially determined to be invalid, the remainder of this Act or the application of such provision to other persons or circumstances shall not be affected by such determination.

“Amend the title so as to read: ‘An Act to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and for other purposes.’”

The following analysis refers to the sections of this amendment, in the nature of a substitute:

SECTION 1

The first section states that the title of the statute is the “Voting Rights Act Amendments of 1970.”

SECTION 2

This section indicates that the original nineteen sections of the Voting Rights Act of 1965 are to be grouped as the first title of the 1965 Act as amended.

SECTION 3

This section is designed to extend for an additional five years the period for which a “4(b) State” or “4(b) political subdivision” must show that no test or device has been used “for the purpose or with the effect of denying or abridging the right to vote on account of race or color” if such State or political subdivision is to remove itself from the coverage of section 4(a).

A “4(b) State” or “4(b) political subdivision” is one which (1) the Attorney General determined maintained on November 1, 1964, any test or device, and with respect to which (2) the Director of the Census determines that less than 50 percent of the voting age residents were registered on November 1, 1964, or that less than 50 percent of such persons voted in the November 1964 presidential election.

Under section 3 of the amendment, such State or political subdivision is empowered to remove itself from the coverage of Section 4(a) by obtaining a declaratory judgment from the United States District Court for the District of Columbia that no test or device has been used during the ten years preceding the filing of the action.

SECTION 4

This section would add to the Voting Rights Act of 1965 a second title containing four new provisions. These provisions would be numbered sections 201 through 205 in the Voting Rights Act as amended and would provide for the following:

SECTION 201—PROHIBITION OF TESTS OR DEVICES IN OTHER STATES

Subsection 201(a)—This subsection would suspend until August 6, 1975, in all states or political subdivisions to which the provisions of section 4(a) are not applicable, the use of any test or device as a prerequisite for voting in any federal, state or local election.

Subsection 201(a) applies to any state or political subdivision which was originally covered by section (4) (a) by virtue of determinations made under section (4) (b) of the Act but which was subsequently removed from the coverage of section (4) (a) by virtue of a declaratory judgment, as provided for in that section. The provision would also cover any other state or political subdivision not subject to section (4) (a) but which may hereafter remove itself from the coverage of section (4) (a).

In effect, subsection 201(a) carries out the intent of H.R. 4249 by extending the ban

on tests or devices to all states and political subdivisions throughout the Nation.

Subsection 201(b)—This subsection sets forth the same definition of “test or device” as that provided in section 4 of the Voting Rights Act of 1965. This definition comprehends broadly defined literacy tests, educational attainment requirements, requirements of “good moral character,” and vouching by registered voters or other classes.

SECTION 202 RESIDENCE REQUIREMENTS

This section in its entirety is identical to the limitation upon state residence requirements in H.R. 4249, as reported by the committee.

Subsection 202(a)—This subsection permits an otherwise qualified citizen to vote in presidential elections in his state or county if he has resided therein since the first day of September immediately preceding the election and has registered in that state or county. However, the requirement of registration is only imposed if there is provision for registration in that state or county after September 1.

Subsection 202(b)—Under this subsection, if a citizen begins residence after September 1 of the election year in a state or county which requires residence prior to September 1, he may vote in the state or county of his prior residence. He may elect to vote in that state or county either in person or by absentee ballot.

Subsection 202(c)—This subsection requires states to afford the right of absentee registration to those otherwise qualified to vote by absentee ballot in that state. Such citizens would include those who have elected to so vote under subsection 202(b).

Subsection 202(d)—This subsection includes the District of Columbia in the provisions of section 202.

SECTION 203—JUDICIAL RELIEF

This section authorizes the Attorney General to bring a civil action to enforce the suspension of literacy tests or devices imposed by section 201. Section 203 also authorizes the Attorney General to bring an action to enforce the rights of persons to vote in the state of their new residence under subsection 202(a) or to enforce the rights of persons to vote in the state of their prior residence, in person or by absentee ballot, under subsection 202(b) and rights of absentee registration secured by subsection 202(c).

SECTION 204—PENALTY

This section provides criminal penalties for depriving or attempting to deprive other persons of any rights secured by section 201 and section 202. Section 204 parallels section 12(a) of the original Voting Rights Act of 1965, which provides penalties for the violation or attempted violation of the rights secured by sections 2, 3, 4, 5, 7, and 10 of the Act.

SECTION 205—SEPARABILITY

This section is a general separability clause intended to make each section of this title separable from every other section and also separable from the original Voting Rights Act, which forms the first title of the Act as amended. It provides that the invalidity of any portion of this title shall not affect the validity of the remainder of this title or the validity of Title I and that the invalidity of its application to any persons or circumstances shall not affect its applicability to other persons or circumstances. The amendment thus continues in full force for all provisions of the Act, as amended, the separability provided in Section 19 of the Act.

DEFICIENCIES IN H.R. 4249

The committee has reported H.R. 4249. That bill contains three distinct elements. First, H.R. 4249 limits residence requirements in presidential elections. This provision is desirable. The proposed substitute

amendment also includes it, in the same form as H.R. 4249, but as a separate section of the new title to the Voting Rights Act.

Second, H.R. 4249 would suspend literacy tests and similar devices in all portions of the country where they are not now suspended under the Voting Rights Act. The proposed amendment would also accomplish a nationwide suspension of tests and devices. However, extension of this suspension to the remainder of the nation would be accomplished in the amendment by the addition of a new title in order to preserve intact sections 4 and 5 of the Voting Rights Act. As explained above, this would avoid the risk of losing what we have gained under the 1965 Act. Moreover, under H.R. 4249, section 3 would become the sole source of remedial relief if the test suspension were violated since that bill eliminates section 4's automatic enforcement scheme.

Third and most important, H.R. 4249 would completely eliminate the crucial protection now afforded by section 5 of the Voting Rights Act and would substitute in its place a weaker provision which would undermine the efficacy of the Act where its protection is most needed. The effect of this deletion would be adverse in at least five respects: (1) Discriminatory changes in the practices or procedures for voting would become effective immediately, burdening Negroes until such time as they are the Attorney General secured a court order enjoining the operation of the changes; (2) The presently covered states and counties would not be obligated to report proposed changes in voting practices or procedures to the Attorney General. He would have to learn of them himself; (3) The Attorney General would have to commence a multiplicity of suits to enjoin new practices or procedures, regardless of how localized the abuse was or how many changes were sought by the same jurisdiction; (4) H.R. 4249 would shift the all important burden of proof which now rests on the jurisdiction seeking to implement the new practice or procedure to the Attorney General; and (5) The Attorney General would have to bring action in each jurisdiction throughout the South, rather than in the single forum of the District of Columbia, where the states presently have to bring suit.*

In testimony given before the Subcommittee on Constitutional Rights of the committee on July 9, 1969, the Civil Rights Commission presented an extensive and very helpful memorandum detailing the shortcomings of H.R. 4249. (The Commission memorandum addressed itself to S. 2507, which, however, is identical in all respect to H.R. 4249.)

The Commission memorandum, annexed in pertinent part as Appendix B, indicates why the changes which H.R. 4249 makes in the Voting Rights Act would destroy the effectiveness of sections 4, 5 and 6 of the Act and why other provisions of H.R. 4249 are unwarranted. Having reviewed the memorandum as well as the extensive hearing testimony which confirms it, we endorse the annexed portions as our views.

CONCLUSION

Mr. Vernon E. Jordan, Jr., Director of the Voter Education Project of the Southern Regional Council, who is intimately familiar with the efforts to register Negro voters under the 1965 Voting Rights Act has vividly summarized the essential question before us—the danger of failing to extend that Act in full force:

"I know—as well as any man in this room that Canton and Grenada and Selma and Sandersville and hundreds of other Southern communities stand poised and ready to eliminate the burgeoning black vote in their jurisdictions. The slightest flicker of a green light from Washington is all these white-dominated communities need. When they receive the signal, they will act."

For all the reasons discussed in these joint views, the undersigned have proposed and recommend the amendment in the nature of a substitute to H.R. 4249.

Signed by Mr. Bayh, Mr. Burdick, Mr. Cook, Mr. Dodd, Mr. Fong, Mr. Hart, Mr. Kennedy, Mr. Mathias, Mr. Scott, Mr. Tydings.

FOOTNOTES

* According to Congressman McCulloch, "It was determined that the District Court of the District of Columbia was the place to lodge jurisdiction which would reasonably, quickly, and uniformly give relief to people who wanted the relief when, if the remedy was delayed, it was a remedy denied." (Hearing before the Committee on Rules, House of Representatives, on H.R. 4249, Nov. 18, 1969, pp. 31-32).

¹ *South Carolina v. Katzenbach*, 383 U.S. 301, 335 (1966).

² *Allen v. State Board of Elections*, 393 U.S. 544 (1969).

³ *Allen*, at 565.

⁴ Letter of September 10, 1969 from Jerris Leonard, Assistant Attorney General, Civil Rights Division, Department of Justice, to Jack P. I. Gremillion, Attorney General of Louisiana, quoting the Supreme Court at 393 U.S. 569.

⁵ Letter of July 11, 1968, from Stephen J. Pollak, then Assistant Attorney General, Civil Rights Division, Department of Justice, to Arthur K. Bolton, Attorney General of Louisiana.

⁶ U.S. Commission on Civil Rights, *Political Participation* (1968) at 26.

⁷ *Id.*

⁸ On April 30, 1969 injunctive relief was denied to challengers of the amendment on the basis of the failure of the legislature to take steps to implement it. *Mississippi Freedom Democratic Party v. Johnson*, civil No. 4082, S. D. Miss. filed Jan. 24, 1967.

⁹ Brief for plaintiffs in *Oden v. Brittain*, Civil No. 69-433, N.D. Ala., filed July 9, 1969.

¹⁰ Letter of December 16, 1969, from Jerris Leonard, Assistant Attorney General, Civil Rights Division, Department of Justice, to McDonald Gallion, Attorney General of Alabama.

¹¹ H. Bill No. 61, to amend Section 6328-24, Mississippi Code of 1942.

APPENDIX A

Public Law 89-110, 89th Congress, S. 1564, August 6, 1965

AN ACT TO ENFORCE THE FIFTEENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act Shall be known as the "Voting Rights Act of 1965".

Sec. 2. No voting qualifications or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color.

Sec. 3. (a) Whenever the Attorney General institutes a proceeding under any statute to enforce the guarantee of the fifteenth amendment in any State or political subdivision the court shall authorize the appointment of Federal examiners by the United States Civil Service Commission in accordance with section 6 to serve for such period of time and for such political subdivisions as the court shall determine is appropriate to enforce the guarantees of the fifteenth amendment (1) as part of any interlocutory order if the court determines that the appointment of such examiners is necessary to enforce such guarantees or (2) as part of any final judgment if the court finds that violations of the fifteenth amendment justifying equitable relief have occurred in such

State or subdivision: *Provided*, That the court need not authorize the appointment of examiners if any incidents of denial or abridgement of the right to vote on account of race or color (1) have been few in number and have been promptly and effectively corrected by State or local action, (2) the continuing effect of such incidents has been eliminated, and (3) there is no reasonable probability of their recurrence in the future.

(b) If in a proceeding instituted by the Attorney General under any statute to enforce the guarantees of the fifteenth amendment in any State or political subdivision the court finds that a test or device has been used for the purpose or with the effect of denying or abridging the right of any citizen of the United States to vote on account of race or color, it shall suspend the use of tests and devices in such State or political subdivisions as the court shall determine is appropriate and for such period as it deems necessary.

(c) If in any proceeding instituted by the Attorney General under any statute to enforce the guarantees of the fifteenth amendment in any State or political subdivision the court finds that violations of the fifteenth amendment justifying equitable relief have occurred within the territory of such State or political subdivision, the court, in addition to such relief as it may grant, shall retain jurisdiction for such period as it may deem appropriate and during such period no voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect at the time the proceeding was commenced shall be enforced unless and until the court finds that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color: *Provided*, That such qualification, prerequisite, standard, practice, or procedure may be enforced if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within sixty days after such submission, except that neither the court's finding nor the Attorney General's failure to object shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure.

Sec. 4. (a) To assure that the right of citizens of the United States to vote is not denied or abridged on account of race or color, no citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device in any State with respect to which the determinations have been made under subsection (b) or in any political subdivision with respect to which such determinations have been made as a separate unit, unless the United States District Court for the District of Columbia in an action for a declaratory judgment brought by such State or subdivision against the United States has determined that no such test or device has been used during the five years preceding the filing of the action for the purpose or with the effect of denying or abridging the right to vote on account of race or color: *Provided*, That no such declaratory judgment shall issue with respect to any plaintiff for a period of five years after the entry of a final judgment of any court of the United States, other than the denial of a declaratory judgment under this section, whether entered prior to or after the enactment of this Act, determining that denials or abridgments of the right to vote on account of race or color through the use of such tests or devices have occurred anywhere in the territory of such plaintiff.

An action pursuant to this subsection shall

be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall lie to the Supreme Court. The court shall retain jurisdiction of any action pursuant to this subsection for five years after judgment and shall reopen the action upon motion of the Attorney General alleging that a test or device has been used for the purpose or with the effect of denying or abridging the right to vote on account of race or color.

If the Attorney General determines that he has no reason to believe that any such test or device has been used during the five years preceding the filing of the action for the purpose or with the effect of denying or abridging the right to vote on account of race or color, he shall consent to the entry of such judgment.

(b) The provisions of subsection (a) shall apply in any State or in any political subdivision of a state which (1) the Attorney General determines maintained on November 1, 1964, any test or device, and with respect to which (2) the Director of the Census determines that less than 50 per centum of the persons of voting age residing therein were registered on November 1, 1964, or that less than 50 per centum of such persons voted in the presidential election of November 1964.

A determination or certification of the Attorney General or of the Director of the Census under this section or under section 6 or section 13 shall not be reviewable in any court and shall be effective upon publication in the Federal Register.

(c) The phrase "test or device" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class.

(d) For purposes of this section no State or political subdivision shall be determined to have engaged in the use of tests or devices for the purpose or with the effect of denying or abridging the right to vote on account of race or color if (1) incidents of such use have been few in number and have been promptly and effectively corrected by State or local action, (2) the continuing effect of such incidents has been eliminated, and (3) there is no reasonable probability of their recurrence in the future.

(e) (1) Congress hereby declares that to secure the rights under the fourteenth amendment of persons educated in American-flag schools in which the predominant classroom 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.

(2) No person who demonstrates that he has successfully completed the sixth primary grade in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English, shall be denied the right to vote in any Federal, State, or local election because of his inability to read, write, understand, or interpret any matter in the English language, except that in States in which State law provides that a different level of education in presumptive of literacy, he shall demonstrate that he has successfully completed an equivalent level of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English.

Sec. 5. Whenever a State or political sub-

division with respect to which the prohibitions set forth in section 4(a) are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1964, such State or subdivision may institute an action in the United States District Court for the District of Columbia for a declaratory judgment that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color, and unless and until the court enters such judgment no person shall be denied the right to vote for failure to comply with such qualification, prerequisite, standard, practice, or procedure: *Provided*, That such qualification, prerequisite, standard, practice, or procedure, may be enforced without such proceeding if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within sixty days after such submission, except that neither the Attorney General's failure to object nor a declaratory judgment entered under this section shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure. Any action under this section shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall lie to the Supreme Court.

Sec. 6. Whenever (a) a court has authorized the appointment of examiners pursuant to the provisions of section 3 (a), or (b) unless a declaratory judgment has been rendered under section 4(a), the Attorney General certifies with respect to any political subdivision named in, or included within the scope of, determinations made under section 4(b) that (1) he has received complaints in writing from twenty or more residents of such political subdivision alleging that they have been denied the right to vote under color of law on account of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment (considering, among other factors, whether the ratio of nonwhite persons to white persons registered to vote within such subdivision appears to him to be reasonably attributable to violations of the fifteenth amendment or whether substantial evidence exists that bona fide efforts are being made within such subdivision to comply with the fifteenth amendment), the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall appoint as many examiners for such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such examiners, hearing officers provided for in section 9(a), and other persons deemed necessary by the Commission to carry out the provisions and purposes of this Act shall be appointed, compensated, and separated without regard to the provisions of any statute administered by the Civil Service Commission, and service under this Act shall not be considered employment for the purposes of any statute administered by the Civil Service Commission, except the provisions of section 9 of the Act of August 2, 1939, as amended (5 U.S.C. 1181), prohibiting partisan political activity: *Provided*, That the Commission is authorized, after consulting the head of the appropriate department or agency, to designate suitable persons in the official service of the United States, with their consent, to serve in these positions. Examiners and hearing officers shall have the power to administer oaths.

Sec. 7. (a) The examiners for each politi-

cal subdivision shall, at such places as the Civil Service Commission shall by regulation designate, examine applicants concerning their qualifications for voting. An application to an examiner shall be in such form as the Commission may require and shall contain allegations that the applicant is not otherwise registered to vote.

(b) Any person whom the examiner finds, in accordance with instructions received under section 9(b), to have the qualifications prescribed by State law not inconsistent with the Constitution and laws of the United States shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 9(a) and shall not be the basis for a prosecution under section 12 of this Act. The examiner shall certify and transmit such list, and any supplements as appropriate, at least once a month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State, and any such lists and supplements thereto transmitted during the month shall be available for public inspection on the last business day of the month and in any event not later than the forty-fifth day prior to any election. The appropriate State or local election official shall place such names on the official voting list. Any person whose name appears on the examiner's list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with subsection (d): *Provided*, That no person shall be entitled to vote in any election by virtue of this Act unless his name shall have been certified and transmitted on such a list to the offices of the appropriate election officials at least forty-five days prior to such election.

(c) The examiner shall issue to each person whose name appears on such a list a certificate evidencing his eligibility to vote.

(d) A person whose name appears on such a list shall be removed therefrom by an examiner if (1) such person has been successfully challenged in accordance with the procedure prescribed in section 9, or (2) he has been determined by an examiner to have lost his eligibility to vote under State law not inconsistent with the Constitution and the laws of the United States.

Sec. 8. Whenever an examiner is serving under this Act in any political subdivision, the Civil Service Commission may assign, at the request of the Attorney General, one or more persons, who may be officers of the United States, (1) to enter and attend at any place for holding an election in such subdivision for the purpose of observing whether persons who are entitled to vote are being permitted to vote, and (2) to enter and attend at any place for tabulating the votes cast at any election held in such subdivision for the purpose of observing whether votes cast by persons entitled to vote are being properly tabulated. Such persons so assigned shall report to an examiner appointed for such political subdivision, to the Attorney General, and if the appointment of examiners has been authorized pursuant to section 3(a), to the court.

Sec. 9. (a) Any challenge to a listing on an eligibility list prepared by an examiner shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission and under such rules as the Commission shall by regulation prescribe. Such challenge shall be entertained only if filed at such office within the State as the Civil Service Commission shall by regulation designate, and within ten days after the listing of the challenged person is made available for public inspection, and if supported by (1) the affidavits of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and (2) a certification that a copy of

the challenge and affidavits have been served by mail or in person upon the person challenged at his place of residence set out in the application. Such challenge shall be determined within fifteen days after it has been filed. A petition for review of the decision of the hearing officer may be filed in the United States court of appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the person petitioning for review but no decision of a hearing officer shall be reversed unless clearly erroneous. Any person listed shall be entitled and allowed to vote pending final determination by the hearing officer and by the court.

(b) The times, places, procedures, and form for application and listing pursuant to this Act and removals from the eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission and the Commission shall, after consultation with the Attorney General, instruct examiners concerning applicable State law not inconsistent with the Constitution and laws of the United States with respect to (1) the qualifications required for listing, and (2) loss of eligibility to vote.

(c) Upon the request of the applicant or the challenger or on its own motion the Civil Service Commission shall have the power to require by subpoena the attendance and testimony of witnesses and the production of documentary evidence relating to any matter pending before it under the authority of this section. In case of contumacy or refusal to obey a subpoena, any district court of the United States or the United States court of any territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a hearing officer, there to produce pertinent, relevant, and nonprivileged documentary evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

SEC. 10. (a) The Congress finds that the requirement of the payment of a poll tax as a precondition to voting (i) precludes persons of limited means from voting or imposes unreasonable financial hardship upon such persons as a precondition to their exercise of the franchise, (ii) does not bear a reasonable relationship to any legitimate State interest in the conduct of elections, and (iii) in some areas has the purpose or effect of denying persons the right to vote because of race or color. Upon the basis of these findings, Congress declares that the constitutional right of citizens to vote is denied or abridged in some areas by the requirement of the payment of a poll tax as a precondition to voting.

(b) In the exercise of the powers of Congress under section 5 of the fourteenth amendment and section 2 of the fifteenth amendment, the Attorney General is authorized and directed to institute forthwith in the name of the United States such actions, including actions against States or political subdivisions, for declaratory judgment or injunctive relief against the enforcement of any requirement of the payment of a poll tax as a precondition to voting, or substitute therefor enacted after November 1, 1964, as will be necessary to implement the declaration of subsection (a) and the purposes of this section.

(c) The district courts of the United States shall have jurisdiction of such actions which shall be heard and determined by a court of

three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

(d) During the pendency of such actions, and thereafter if the courts, notwithstanding this action by the Congress, should declare the requirement of the payment of a poll tax to be constitutional, no citizen of the United States who is a resident of a State or political subdivision with respect to which determinations have been made under subsection 4(b) and a declaratory judgment has not been entered under subsection 4(a), during the first year he becomes otherwise entitled to vote by reason of registration by State or local officials or listing by an examiner, shall be denied the right to vote for failure to pay a poll tax if he tenders payment of such tax for the current year to an examiner or to the appropriate State or local official at least forty-five days prior to election, whether or not such tender would be timely or adequate under State law. An examiner shall have authority to accept such payment from any person authorized by this Act to make an application for listing, and shall issue a receipt for such payment. The examiner shall transmit promptly any such poll tax payment to the office of the State or local official authorized to receive such payment under State law, together with the name and address of the applicant.

SEC. 11. (a) No person acting under color of law shall fail or refuse to permit any person to vote who is entitled to vote under any provision of this Act or is otherwise qualified to vote, or willfully fail or refuse to tabulate, count, and report such person's vote.

(b) No person, whether acting under color of law or otherwise, shall intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for urging or aiding any person to vote or attempt to vote, or intimidate, threaten, or coerce any person for exercising any powers or duties under section 3(a), 6, 8, 9, 10, or 12(e).

(c) Whoever knowingly or willfully gives false information as to his name, address, or period of residence in the voting district for the purpose of establishing his eligibility to register or vote, or conspires with another individual for the purpose of encouraging his false registration to vote or illegal voting, or pays or offers to pay or accepts payment either for registration to vote or for voting shall be fined not more than \$10,000 or imprisoned not more than five years, or both; *Provided, however,* That this provision shall be applicable only to general, special, or primary elections held solely or in part for the purpose of selecting or electing any candidate for the office of President, Vice President, presidential elector, Member of the United States Senate, Member of the United States House of Representatives, or Delegates or Commissioners from the territories or possessions, or Resident Commissioner of the Commonwealth of Puerto Rico.

(d) Whoever, in any matter within the jurisdiction of an examiner or hearing officer knowingly and willfully falsifies or conceals a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

SEC. 12. (a) Whoever shall deprive or attempt to deprive any person of any right secured by section 2, 3, 4, 5, 7, or 10 or shall violate section 11(a) or (b), shall be fined

not more than \$5,000, or imprisoned not more than five years, or both.

(b) Whoever, within a year following an election in a political subdivision in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot which has been cast in such election, or (2) alters any official record of voting in such election tabulated from a voting machine or otherwise, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

(c) Whoever conspires to violate the provisions of subsection (a) or (b) of this section, or interferes with any right secured by section 2, 3, 4, 5, 7, 10, or 11 (a) or (b) shall be fined not more than \$5,000, or imprisoned not more than five years, or both.

(d) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 2, 3, 4, 5, 7, 10, 11, or subsection (b) of this section, the Attorney General may institute for the United States, or in the name of the United States, an action for preventive relief, including an application for a temporary or permanent injunction, restraining order, or other order, and including an order directed to the State and State or local election officials to require them (1) to permit persons listed under this Act to vote and (2) to count such votes.

(e) Whenever in any political subdivision in which there are examiners appointed pursuant to this Act any persons allege to such an examiner within forty-eight hours after the closing of the polls that notwithstanding (1) their listing under this Act or registration by an appropriate election official and (2) their eligibility to vote, they have not been permitted to vote in such election, the examiner shall forthwith notify the Attorney General if such allegations in his opinion appear to be well founded. Upon receipt of such notification, the Attorney General may forthwith file with the district court an application for an order providing for the marking, casting, and counting of the ballots of such persons and requiring the inclusion of their votes in the total vote before the results of such election shall be deemed final and any force or effect given thereto. The district court shall hear and determine such matters immediately after the filing of such application. The remedy provided in this subsection shall not preclude any remedy available under State or Federal law.

(f) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether a person asserting rights under the provisions of this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 13. Listing procedures shall be terminated in any political subdivision of any State (a) with respect to examiners appointed pursuant to clause (b) of section 6 whenever the Attorney General notifies the Civil Service Commission, or whenever the District Court for the District of Columbia determines in an action for declaratory judgment brought by any political subdivision with respect to which the Director of the Census has determined that more than 50 per centum of the nonwhite persons of voting age residing therein are registered to vote, (1) that all persons listed by an examiner for such subdivision have been placed on the appropriate voting registration roll, and (2) that there is no longer reasonable cause to believe that persons will be deprived of or denied the right to vote on account of race or color in such subdivision, and (b), with respect to examiners appointed pursuant to section 3(a), upon order of the

authorizing court. A political subdivision may petition the Attorney General for the termination of listing procedures under clause (a) of this section, and may petition the Attorney General to request the Director of the Census to take such survey or census as may be appropriate for the making of the determination provided for in this section. The District Court for the District of Columbia shall have jurisdiction to require such survey or census to be made by the Director of the Census and it shall require him to do so if it deems the Attorney General's refusal to request such survey or census to be arbitrary or unreasonable.

SEC. 14. (a) All cases of criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) No court other than the District Court for the District of Columbia or a court of appeals in any proceeding under section 9 shall have jurisdiction to issue any declaratory judgment pursuant to section 4 or section 5 or any restraining order or temporary or permanent injunction against the execution or enforcement of any provision of this Act or any action of any Federal officer or employee pursuant hereto.

(c) (1) The terms "vote" or "voting" shall include all action necessary to make a vote effective in any primary, special, or general election, including, but not limited to, registration, listing pursuant to this Act, or other action required by law prerequisite to voting, casting a ballot, and having such ballot counted properly and included in the appropriate totals of votes cast with respect to candidates for public or party office and propositions for which votes are received in an election.

(2) The term "political subdivision" shall mean any county or parish, except that where registration for voting is not conducted under the supervision of a county or parish, the term shall include any other subdivision of a State which conducts registration for voting.

(d) In any action for a declaratory judgment brought pursuant to section 4 or section 5 of this Act, subpoenas for witnesses who are required to attend the District Court for the District of Columbia may be served in any judicial district of the United States: *Provided*, That no writ of subpoena shall issue for witnesses without the District of Columbia at a greater distance than one hundred miles from the place of holding court without the permission of the District Court for the District of Columbia being first had upon proper application and cause shown.

SEC. 15. Section 2004 of the Revised Statutes (42 U.S.C. 1971), as amended by section 131 of the Civil Rights Act of 1957 (71 Stat. 637), and amended by section 601 of the Civil Rights Act of 1960 (74 Stat. 90), and as further amended by section 101 of the Civil Rights Act of 1964 (78 Stat. 241), is further amended as follows:

(a) Delete the word "Federal" wherever it appears in subsections (a) and (c);

(b) Repeal subsection (f) and designate the present subsections (g) and (h) as (f) and (g), respectively.

SEC. 16. The Attorney General and the Secretary of Defense, jointly, shall make a full and complete study to determine whether, under the laws or practices of any State or States, there are preconditions to voting, which might tend to result in discrimination against citizens serving in the Armed Forces of the United States seeking to vote. Such officials shall, jointly, make a report to the Congress not later than June 30, 1966, containing the results of such study, together with a list of any States in which such preconditions exist, and shall include in such report such recommendations for legislation as they deem advisable to prevent discrimination in voting against citizens serving in the Armed Forces of the United States.

SEC. 17. Nothing in this Act shall be construed to deny, impair, or otherwise adversely affect the right to vote of any person registered to vote under the law of any State or political subdivision.

SEC. 18. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 19. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

Approved August 6, 1965.

LEGISLATIVE HISTORY

House Reports: No. 439 accompanying H.R. 6400 (Comm. on the Judiciary) and No. 711 (Comm. of Conference).

Senate Reports: No. 162, 162 pt. 2, 162 pt. 3 (Comm. on the Judiciary).

Congressional Record, Vol. 111 (1965):
Apr. 13, 22, 23, 26-30, May 3-7, 10-14, 17-21, 24, 25: Considered in Senate.

May 26: Considered and passed Senate.
July 6-8: Considered in House.

July 9: Considered and passed House, amended, in lieu of H.R. 6400.

Aug. 3: House agreed to conference report.

Aug. 4: Senate agreed to conference report.

APPENDIX B

CIVIL RIGHTS COMMISSION STAFF MEMORANDUM—ANALYSIS OF S. 2507, A BILL TO AMEND THE VOTING RIGHTS ACT OF 1965

JULY 8, 1969.

On August 6, 1970, the States and counties now covered by the Voting Rights Act of 1965, 79 Stat. 437, 42 U.S.C. §§ 1973-1973p (Supp. III 1965-67), will have been subject to its provisions for five years, and so by terms of the Act will be able to escape from its coverage. The United States Commission on Civil Rights in a letter from the Chairman to the President dated March 28, 1969, expressed its support for extension of the coverage period of the existing Act, and documented the need with a staff memorandum, a copy of which is attached. The Commission's concern was further expressed in testimony before Subcommittee Number 5 of the Committee on the Judiciary, House of Representatives, by the Acting Staff Director on May 14, 1969.

In testimony before the Subcommittee on June 26 and July 1, 1969, Attorney General John N. Mitchell indicated his opposition to H.R. 4249, a bill to extend coverage of the Voting Rights Act for five years beyond its 1970 expiration. He proposed as an alternative a bill which was subsequently introduced in the Senate as S. 2507. That bill would diminish the protection of the existing Act in a number of respects, while adding other provisions dealing with matters not within the 1965 Act's coverage. This memorandum analyzes the principal provisions of S. 2507, and comments upon their utility and their effect on the protections which voters now enjoy under the 1965 Act.

I. ELIMINATION OF REQUIREMENT FOR PRIOR APPROVAL OF VOTING LAW CHANGES

A. Present law

Under Section 5 of the Voting Rights Act of 1965, when a State or political subdivision covered by the Act seeks to change its voting qualifications or procedures, it must either obtain the approval of the Attorney General of the United States or initiate a suit in the U.S. District Court for the District of Columbia. If the Attorney General objects to the changes, they may not be enforced until the court rules that they do not have the purpose and will not have the effect of denying to any person the right to vote because of his race

¹ S. 818, S. 2456, H.R. 5181, and H.R. 5538 are in substance identical with H.R. 4249.

or color. If the Attorney General does not object, the new qualifications or procedures may be enforced 60 days after their submission.² States and subdivisions covered by the standards of the 1965 Act are those which in 1964 had a combination of literacy or other requirements for voting, and voting registration of participation by less than half the adult population. They are Alabama, Georgia, Louisiana, Mississippi, South Carolina, Virginia, 39 counties of North Carolina, one county of Arizona, and one county of Hawaii.³

B. S. 2507 proposed change

Section 3 of S. 2507 would repeal this provision of the existing law. Instead it would authorize the Attorney General to seek an injunction in a three-judge Federal district court against the enforcement of any voting qualification or procedure which has the purpose or effect of abridging the right to vote on account of race. Unlike Section 5 of the Voting Rights Act, this section would not be restricted to States covered by the 1965 Act.

C. Analysis of proposed change

Repeal of Section 5 and substitution of the new provision would have several disadvantages:

1. *Tedious and Time-Consuming Litigation.*—The proposal flies in the face of the experience Congress had in mind when it enacted Section 5 in 1965. Until the Voting Rights Act of 1965, private citizens (and, after 1957, the Attorney General) could sue to set aside laws and practices which denied the right to vote on the basis of race. Past studies have shown the inadequacy of civil litigation as a means of protecting Negro voting rights from officially sanctioned destruction.⁴ The most eloquent testimony of the ineffectiveness of prior methods of protection is the fact that in 1964 in the seven States covered by the Act, only 29 percent of the adult Negro population was registered to vote, compared with 73 percent of adult whites.⁵

In *South Carolina v. Katzenbach*, 383 U.S. 301 (1966), the Supreme Court discussed why the case-by-case method of litigation against voting discrimination had proved ineffective. The Court stated:

"Voting suits are unusually onerous to prepare, sometimes requiring as many as 6,000 man-hours spent combing through registration records in preparation for trial. Litigation has been exceedingly slow. . . . Even where favorable decisions have finally been obtained, some of the States affected have merely switched to discriminatory devices not covered by the federal decrees or have enacted difficult new tests designed to prolong the existing disparity between white and Negro registration." *Id.* at 314 (footnote omitted).

To prevent such disingenuous changes in voting laws, Congress enacted Section 5. Under it individuals and the Government no longer need initiate time-consuming litigation to stop discriminatory practices, and then if ultimately successful find that the victory is meaningless because the State can simply adopt new discriminatory laws, in an endless cycle. The Voting Rights Act assures

² Since the passage of the Voting Rights Act of 1965 approximately 225 voting laws have been submitted to the Attorney General for approval, according to the Department of Justice. The Attorney General has objected to only four of the laws submitted. Three of the four objections involved the statutes before the Supreme Court in the *Allen* case, discussed below.

³ The State of Alaska and some isolated counties elsewhere have removed themselves from coverage under the Act according to the procedures of Section 4.

⁴ See e.g., 1961 Report of the U.S. Commission on Civil Rights, Vol. 1, *Voting*.

⁵ See U.S. Commission on Civil Rights, *Political Participation* 222 (1968).

that the validity, of voting laws will be tested before, not after, they are put into effect. As the Supreme Court said, "Not underestimating the ingenuity of those bent on preventing Negroes from voting. Congress therefore enacted § 5. . . ." *Allen v. State Board of Elections*, 37 U.S. Law Week 4168 (1969).

2. *Misplaced Burden of Proof.*—Under the proposed legislation the Attorney General or a private litigant would bear the burden and have to devote considerable resources to proving that a particular change in State law is discriminatory. Under the present Section 5, the burden of proof that a practice or procedure is not discriminatory is on the State or political subdivision. Given the history in some States of repression of any attempts by black people to gain political power, and the greater familiarity of the State with the purpose and effect of its legislation, this is where the burden should remain. As the Supreme Court observed: "After enduring nearly a century of systematic resistance to the Fifteenth Amendment, Congress might well decide to shift the advantage of time and inertia from the perpetrators of the evil to its victims." *South Carolina v. Katzenbach*, 383 U.S. 301, 323 (1966). Under S. 2507 the shift would be undone.

3. *Increasing Difficulties for Private Litigants.*—An important gain in voter protection under the 1965 Act was the right of individuals to sue to enforce Section 5, regardless of inaction by the Department of Justice. This right was clarified recently when the Supreme Court interpreted Section 5 in *Allen v. State Board of Elections*, *supra*. In such suits the private litigants need establish only that a State has not complied with Section 5, in order to block changes in legislation. With their vigilance, Section 5 will be even more effective if retained, since enforcement will no longer depend entirely on the resources, knowledge and priorities of the Department of Justice.

4. *Past Violations Must Not Be Condoned.*—The Attorney General in his statement observed at page 5 that: "Where local officials have passed discriminatory laws, generally they have not been submitted to the Department of Justice." He suggested in testimony before the Subcommittee that this was one reason why the section should be repealed.

It should be remembered above all that most States have obeyed Section 5, and sought approval of changes in their voting laws. Like most laws, Section 5 achieves its purpose because people obey it. As for the instances in which there have been violations, there are two reasons that instances of noncompliance would not support the section's elimination.

First, until the *Allen* decision, referred to previously, it had been unclear whether Section 5 applied to all election law changes in the covered States, or only to those changes which dealt with voting and registration. Thus neither Mississippi nor Virginia, the States involved in the *Allen* case, had submitted to the Attorney General or sought approval from the District Court of the District of Columbia for statutes altering such matters as whether elective offices are to be appointive, requirements for filing by candidates, and procedures concerning assistance to voters unable to mark ballots. Because the Court has now made clear that Section 5 has a very wide scope, States can now be expected to submit more statutes for approval.

Second, if a State continues to ignore Section 5, the remedy under the existing law is simple. Either the Attorney General or a private litigant can sue in any Federal district court to enjoin the State's change in law for failure to follow the dictates of Section 5. Such a lawsuit is very expeditious. The only proof required is that the new State provision relates to voting, that it has modified

the law in effect as of November 1, 1964, and that it has not been submitted to the Attorney General or the District Court of the District of Columbia. No proof is required that the change has a discriminatory effect. On this showing, injunction follows as a matter of course. A recent example of the effectiveness of this procedure occurred in Mississippi, where a Federal district court enjoined a municipal primary election in Mississippi because the city expanded its corporate limits—allegedly to dilute the back vote by adding white areas to the town—without submitting the changes to the Attorney General or the District Court in the District of Columbia.

The burden of such litigation is slight, the proof simple, the likelihood of obtaining immediate relief great. Prevention of such flagrant noncompliance with the law would not overburden the Department of Justice. Normally the cure for cases of outright defiance of the law is not repeal of the law, but rather more vigorous enforcement.

5. *Attorney General's Power to Sue Adds Nothing of Substance.*—S. 2507, after eliminating the simple enforcement procedure described above, would substitute a section authorizing the Attorney General to sue in Federal court whenever he believes a State has enacted or is administering any voting procedure with the purpose or effect of denying the franchise on grounds of race. But the Attorney General already has the authority to bring such suits. Section 2 of the Voting Rights Act of 1965 provides that:

"No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed on or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color."

And Section 12(d) of the same Act provides that:

"Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 2 . . . the Attorney General may institute . . . an action for preventive relief, including an application for a temporary or permanent injunction, restraining order, or other order. . . ."

Similar powers were included in the Civil Rights Act of 1957, 71 Stat. 634.

Thus the new section would give the Attorney General no powers in addition to those granted by the Voting Rights Act and its predecessors. His access to a three-judge forum and the right of direct appeal to the Supreme Court were granted in the Civil Rights Act of 1964. Most importantly, under the present law, lawsuits with or without direct appeal are unnecessary since Section 5 preserves the status quo until legality is decided without need to resort to litigation.

II. EXPANDED POWER TO SEND EXAMINERS AND OBSERVERS

A. Present law

Under Section 6 of the present Voting Rights Act, the Attorney General may direct that Federal examiners be sent to any State or county covered by the Act if he has received 20 meritorious complaints from that jurisdiction alleging voter discrimination, or if he believes that appointment of examiners is necessary to enforce the right to vote. Examiners prepare lists of applicants eligible to vote, whom State officials are required to register.

In addition, the present Act in Section 8 provides for appointment of Federal observers to watch for irregularities in polling places and in the tabulation of votes. Observers may be sent only to jurisdictions which have been designated for appointment of examiners.

B. S. 2507 proposed change

S. 2507 in its Section 4 would allow the Attorney General to send Federal examiners

to register voters in any State, county or city in the United States, again subject to either receipt of 20 complaints or his belief that examiners are needed to prevent voting discrimination. He would not be confined to the States and counties covered by the Act.

In addition S. 2507 in its Section 5 would authorize the Attorney General to send Federal observers to any political subdivision in the United States in which he believed their presence was necessary or appropriate to prevent voting discrimination. He would not be limited to subdivisions covered by the Act and designated for appointment of examiners.

C. Analysis of proposed change

The expanded authority to send examiners and observers is in no way objectionable; the Attorney General should have power to send examiners and observers wherever they may be needed. However, no evidence has been presented to show that examiners and observers are not needed more vitally in the seven States to which they can now be sent. In addition, under Section 3 of the Act, the Attorney General may obtain appointment of examiners in other jurisdictions as part of interlocutory relief in suits to enforce voting rights under the Fifteenth Amendment.

The power to send examiners has been used sparingly—too sparingly—even under the 1965 Act. Two of the seven States covered by the Act have never had a county designated for the appointment of examiners, and two others have had only five between them. If the Attorney General has made so little use of the power to appoint examiners in the areas covered by the Act, where the need has been great, it seems unlikely he will have cause to use the proposed authority outside those areas where no need has yet been shown.

The same comments apply to the expanded power to send observers. The present requirement that observers be sent only to jurisdiction designated for examiners has not restricted them to places where examiners actually are present, since the Attorney General has found it sufficient simply to designate counties for appointment of examiners in order to send observers, without actually having examiners dispatched. Authority to dispatch observers throughout the Nation adds little to the power to deal with voter discrimination in the States where it has been known to exist. Thus the proposed change is unobjectionable, but its practical usefulness is at best speculative.

IV. NEW VOTING RIGHTS STUDY COMMISSION

A. Present law

The United States Commission on Civil Rights is authorized by Congress to investigate complaints that citizens are being denied the right to vote by reason of their race, color, religion or national origin. It is also authorized to investigate complaints that because of fraudulent practices or discrimination citizens are being denied the right to vote or have their votes properly counted in Federal elections. The Commission from its inception in 1957 has devoted a large part of its resources to investigating voting rights denials and reporting to the President and Congress on changes on the laws and their administration which are necessary to protect the right to vote. The Commission's publications which deal especially with voting include its 1959 Report, *Voting* (1961), *Voting in Mississippi* (1965), *The Voting Rights Act . . . The First Months* (1965), and *Political Participation* (1968). As Senator Dirksen recently observed in speaking of voting protection and literacy tests:

"It was in 1957, when a new conscience made itself felt in the United States, resulting in the creation of a Civil Rights Commission to explore the whole question. . . ."

"The Commission on Civil Rights consisted of outstanding talent and it made a thor-

ough examination of the matter." *Congressional Record*, volume 115, part 13, page 17700.

B. S. 2507 proposed change

Section 7 of the proposed legislation would add to the Federal government a new temporary commission to be called the National Advisory Commission on Voting Rights. It would have a chairman and eight members, all appointed by the President, an Executive Director also a Presidential appointee, and a staff and budget of presently undisclosed dimensions. No provision would be made for bipartisan representation, nor would there be any requirement that the Senate advise and consent to nominations. The new Commission would be charged to make a study of the effects of laws restricting the right to vote and of fraudulent and corrupt practices upon voting rights, reporting with recommendations by January 15, 1973.

C. Analysis of proposed change

The new commission as proposed would duplicate the tasks which have been and are currently being performed by the Commission on Civil Rights. It would lack the staff and expertise in the voting field which the Commission on Civil Rights has acquired, and would terminate in 1973 within two weeks of the date presently set for the final report of the existing Commission. In addition, the proposed additional commission would lack the legislative mandate to study the broad problems of political participation, and would instead be limited to a narrow focus on legislative barriers and fraudulent practices. The experience of the Commission on Civil Rights has shown that the issues of voting rights are more complex, and cannot be understood apart from a consideration of the educational, economic, historical and social context in which those rights are exercised.

In other ways the proposed commission, besides being duplicative would not be as effective as the present Commission on Civil Rights. It would lack the present Commission's power to subpoena witnesses and documents. Its members and staff would probably lack the years of familiarity with voting laws and problems on which the present Commission draws. And unlike the present Commission it would not be required to be bipartisan with members subject to Senate confirmation. As former Attorney General Brownell observed in 1956, urging the establishment of the bipartisan Commission on Civil Rights:

"When there are charges that by one means or another the vote is being denied, we must find out all of the facts—the extent, the methods, the results. . . . The study should be objective and free from partisanship." H.R. Rep. 291, 85th Cong., 1st Sess. (1957).

Finally, there has already been one investigation of voting by an independent commission, carried on in 1963 by the President's Commission on Registration and Voting Participation at a time when the jurisdiction of the Commission on Civil Rights in the voting area was narrower than its present statutory mandate. The 1963 Commission was charged with investigating the reasons for low voter participation and recommending solutions for this problem, except that it was not to consider "matters placed under the jurisdiction of the Commission on Civil Rights." During its investigation the 1963 Commission:

"made a detailed analysis of the election laws and practices of the 50 states and . . . studied the electoral systems of other democracies. It . . . solicited the opinions of many hundreds of citizens in the fields of national, state and local government, politics, civic and social work and political science. Staff members of the Commission . . . interviewed a number of officials directly concerned with

election administration at the state, county, and municipal levels."⁹

The 1963 Commission recommended the adoption of 21 detailed standards, including a nationwide ban on literacy tests. Many of the subjects on which the 1963 Commission made recommendations would be restudied by the new Federal commission proposed in S. 2507.

V. ELIMINATION OF RESIDENCY REQUIREMENTS IN PRESIDENTIAL ELECTIONS

A. Present law

In our mobile society, it has been estimated that as many as one-third of all households move each year, many of them across jurisdictional lines. At present the residence requirements to vote in elections for electors for President and Vice-President are the same as those for voting in elections in the jurisdiction of residence. Since many jurisdictions require as much as a full year of residence for eligibility to vote, many millions of recently arrived voters are unable to vote in Presidential elections. The Census Bureau has estimated that as many as 5.5 million persons were disfranchised in this way in 1968.

B. S. 2507 proposed change

In its Section 2, S. 2507 would provide that if a newly arrived resident may vote in an election for President or Vice President (by which presumably is meant in election for electors for President or Vice-President) in his new State or political subdivision of residence if he moved there before September 1 of the election year, or in his former state if he moved after September 1 and was qualified to vote at the former residence.

C. Analysis of proposed change

The constitutionality of existing state laws which disfranchise new residents in Presidential elections is uncertain, and probably will be decided by the Supreme Court next term.¹⁰ Whatever the Court's ruling, such restrictions serve no rational policy as applied to election of officials whose constituency is national in scope, and should be abolished. Such was one of the recommendations of the 1963 special commission. The Commission on Civil Rights through the Chairman's March 28, 1969, letter to the President stated:

"Other barriers to the free exercise of the right to vote should also be examined to determine whether they infringe rights under the Fourteenth or Fifteenth Amendments and therefore should be eliminated by Congress. For example, residency requirements seem unreasonable when applied to presidential elections, for which familiarity with local issues and personalities is irrelevant. The Commission is especially concerned because the burden of such requirements falls heavily on migrant workers, mainly Mexican Americans from the Southwest, who are often unable to vote either in their home State or in the State in which they are working. In addition, long residency requirements disfranchise a large number of well educated young adults, who tend to be more mobile than the population generally."

Elimination of residency requirements in Presidential elections would correct a longstanding injustice.

VI. SPECIAL SURVEYS OF VOTER PARTICIPATION

A. Present law

Title VIII of the Civil Rights Act of 1964, 78 Stat. 266, provides for a survey of voting and voter registration by the Secretary of Commerce in areas recommended by the Commission on Civil Rights. The survey, and

⁹ Report of the President's Commission on Registration and Voting Participation, iii (1963).

¹⁰ See *Hall v. Beals*, *prob. jur. noted*, 37 U.S. Law Week 3298 (1969) (No. 950, O.T. 1968).

the 1970 Census, shall compile voting data by race and national origin.¹¹

B. S. 2507 proposed change

In its Section 17(c) the bill proposes that the Secretary of Commerce make special surveys to collect data regarding voting by race, national origin, and income groups, and transmit the data with the results of the 1970 Census to the proposed new advisory commission on voting rights.

C. Analysis of proposed change

The proposed Section 17(c) adds nothing new to existing authority for a voting survey except the provision that the data would be collected by income group as well as by national origin. While this added information would be welcome, it also would be provided through a simple amendment to Title VIII.

Title VIII, however, has never been implemented. It directed an immediate survey as well as one "in connection with" the 1970 Census. For reasons of economy, it was decided in 1966 that the immediate survey would not be done. Funds for the latter survey have not been requested by the President or appropriated by Congress.

Since the enactment of Title VIII the Commission on Civil Rights has fulfilled its statutory duty of specifying the areas to be covered by the survey. This designation has been updated and will be updated again whenever there is indication that the survey will be carried out.

In addition, the Commission on Civil Rights has continually urged that Title VIII be implemented. On February 17, 1969, the Commission sent a letter to Secretary of Commerce Maurice Stans asking him to request Bureau of Budget approval for funds for the Title VIII survey. On February 18, 1969, the Commission wrote to Attorney General John N. Mitchell enclosing a copy of the letter to Mr. Stans and indicating that if funds are not to be made available for the Title VIII survey, then Title VIII should be repealed, since there would be "no useful purpose" in having Title VIII continue to remain a dead letter on the books.

On March 6, 1969, the Secretary of Commerce replied to the Commission that he had resubmitted the request for funds to the Bureau of the Budget. However, the Commission subsequently learned that this request had been denied.

¹¹ Sec. 801. The Secretary of Commerce shall promptly conduct a survey to compile registration and voting statistics in such geographic areas as may be recommended by the Commission on Civil Rights. Such a survey and compilation shall, to the extent recommended by the Commission on Civil Rights, only include a count of persons of voting age, by race, color, and national origin, and determination of the extent to which such persons are registered to vote, and have voted in any statewide primary or general election in which the Members of the United States House of Representatives are nominated or elected, since January 1, 1960. Such information shall also be collected and compiled in connection with the Nineteenth Decennial Census, and at such other times as the Congress may prescribe. The provisions of Section 9 and Chapter 7 of Title 13, United States Code, shall apply to any survey, collection, or compilation of registration and voting statistics carried out under this title: *Provided, however*, that no person shall be compelled to disclose his race, color, national origin, or questioned about his political party affiliation, how he voted, or the reasons therefor, nor shall any penalty be imposed for his failure or refusal to make such disclosure. Every person interrogated orally, by written survey or questionnaire or by any other means with respect to such information shall be fully advised with respect to his right to fail or refuse to furnish such information, 78 Stat. 268 (1964).

On April 3, 1969, Assistant Attorney General Jerris Leonard responded to the Commission's February 18 letter to the Attorney General. Mr. Leonard stated:

"We recognize that it would be useful to have the results of a survey of the scope recommended by the Commission. However, because of the expense involved, we are unable to share your view that such a project should be undertaken. Assuming that the cost of the survey would amount to several million dollars, we do not feel that an expenditure of this magnitude can be justified."

Copies of these four letters are attached.

The Attorney General, by proposing in S. 2507 surveys as called for in Title VIII, apparently now considers the type of survey called for by Title VIII a valuable one and will cooperate in its implementation. It is to be hoped that this change of position by the Department of Justice will encourage Congress to appropriate the funds for this important project which it authorized in 1964, and that the Department of Justice will propose the funding legislation called for.

VII. CONCLUSION

In his testimony the Attorney General indicated his willingness that the Congress, if it desires, deal first with extending the existing protections of the Voting Rights Act, and then consider as a separate matter the several substantive changes proposed in S. 2507. That would be a wise course. Some provisions of S. 2507, particularly the proposed repeal of existing safeguards against biased changes in voting laws, would drastically reduce existing voting rights protection. Others, such as the proposed new commission to study voting rights and the proposed surveys, duplicate matters covered under existing laws and are unnecessary. And still others, such as the elimination of residency requirements in Presidential elections, should be adopted.

The assortment of provisions in S. 2507 should be considered on their individual merits, and those which would weaken voting rights protection should be eliminated. Existing voting rights protection should be continued in full force.

Mr. SCOTT. Mr. President, these are the views of a majority of the committee and, therefore, in that sense represent what would have been the committee bill had a vote been possible within the Senate Judiciary Committee. However, the committee being under instructions to report by the 1st of March or the first legislative day thereafter, it did so report without a vote in the committee. The joint views of the members of the committee, available to us, express the minority views of the committee members.

The amendment has been printed in full and reported. And the joint views contain a supply of the Scott-Hart compromise with reference to the new provisions thereof, a section-by-section analysis, a discussion of the deficiencies in H.R. 4249, which was the bill passed in the House, the inclusion of the signatories of the joint views, and the 1965 Voting Rights Act is printed in full in appendix A. Appendix B is the Civil Rights Commission staff memorandum outlining the shortcomings of H.R. 4249.

The memorandum addresses itself to S. 2507, which is identical in all respects to H.R. 4249.

I read from the joint views:

The undersigned 10 members of the committee submit the following views in support of an amendment, amendment No. 519, in the nature of a substitute, to H.R. 4249.

The names of the 10 members appear on page 28 of the joint views and are as follows: Senators BAYH, BURDICK, COOK, DOBB, FONG, HART, KENNEDY, MATHIAS, SCOTT, and TYDINGS.

The amendment will extend the Voting Rights Act of 1965 in its present form for 5 years.

It would also add a separate title incorporating the two new features of H.R. 4249; Suspension of literacy tests throughout the remainder of the country; and limitations on residence requirements in presidential elections.

I might add that the suspension of literacy tests, in my view, meets the argument we had here a short time ago on the equal application of the law.

I submit that those who wish to see the law equally applied should bear in mind that the abolition of the literacy tests is nationwide and accomplishes that purpose.

I would also like to look to the time the House voted on H.R. 4249. A letter was received from the President of the United States, which letter appears in the CONGRESSIONAL RECORD, in which the President states that there are two features with reference to voting rights in which he has a particular concern and which he would like to see adopted. They are the two to which I have referred—the national suspension of literacy tests throughout the country, and the opportunity to establish new limitations on the residence requirements in Presidential elections, so that anyone moving, and thereby residing in a different State from his former residence for a period of 60 days or more before elections, shall be protected under his right either to vote in his new State or in the State from which he has moved under the limitation set forth in the amendment.

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

Mr. SCOTT. I yield.

Mr. HRUSKA. Does the Senator from Pennsylvania construe the letter from the President to mean that the President has repudiated and abandoned and no longer desires the balance of the so-called administration bill?

Mr. SCOTT. It is my judgment that the President's letter speaks for itself. I would not go beyond the four corners of the letter. But the letter is in the RECORD and, of course, the President expressed in the letter particular concern over the two features of the House bill.

Mr. HRUSKA. It is the observation of the Senator from Nebraska that the Senator from Pennsylvania undertook to quote and interpret the letter. That is the reason I raised the question. I simply did not want the RECORD to indicate, by implication or otherwise, that the letter would be construed as being a repudiation or abandonment on the part of the President of the bill which he caused to be sent to Congress as the administration bill.

Mr. SCOTT. I am not attempting to read into the letter anything beyond what is to be found within the four corners of it. But I think it is significant that the President found it important to stress that it was a matter of some concern to him. I suppose we shall have more debate on the point later.

An amendment in the nature of a substitute to H.R. 4249 and cosponsored by each of the undersigned was introduced in the Senate, referred to the Judiciary Committee for consideration and placed before the Subcommittee on Constitutional Rights. No vote was had on this amendment, and therefore, no formal recommendation of the amendment was reported by the committee. Accordingly, by order of the Senate, agreed to December 16, 1969, the committee reported H.R. 4249, as referred, without recommendation.

However, in the hope and expectation that a joint statement of the views of a majority of the committee will be helpful, the undersigned submit this statement to express our recognition of the need for continuation of the Voting Rights Act of 1965 in a form which insures that its safeguards remain intact and unemasculated.

These joint views include an analysis of the provisions of the amendment we have proposed and a statement of the facts which warrant its substitution for H.R. 4249, as reported by the committee.

The primary purpose of our proposal is to continue in full force and effect all the provisions of the Voting Rights Act of 1965 for an additional 5 years. We have also proposed new provisions similar to those in H.R. 4249, which will further enlarge protection of the franchise.

However, it is essential to avoid any question about the principal purpose now before us: the extension for an additional 5 years of the provisions of the 1965 act which have proven so effective. Absolutely nothing must be allowed to confuse that point—or to lay the groundwork for attempts to relitigate the critical provisions of the 1965 act which the U.S. Supreme Court has already passed upon and approved.

If either the extension of the literacy test suspension nationwide or restrictions on residence requirements are woven into the present provisions of the act as is the case with H.R. 4249, the courts would be faced with a completely new statute. This would risk litigation which might tie up the critical provisions of the present act and, until reviewed by the Supreme Court, conceivably permit the reintroduction of literacy tests in those areas where they are presently suspended. We separate the provisions in order to insure against this risk in every possible way.

Therefore, the amendment simply extends the 1965 act, intact, for an additional 5 years, and then adds in a separate title the literacy test suspension in the remainder of the Nation as well as the restrictions on residence requirements for presidential elections. In this way, we accomplish uniform suspension of literacy tests nationwide, but do so in a manner which assures that no court test of the extension of the ban beyond the States and counties covered under section 4(a) of the 1965 act could invalidate or even temporarily stay the effectiveness of the 1965 suspension. Enactment of a nationwide ban on the literacy tests and devices in place of the present section 4(a) of the act runs this risk.

The Voting Rights Act of 1965 is a comprehensive measure designed to eradicate, at long last, widespread disenfranchisement on the basis of race in direct violation of the 15th amendment. The act has proved historically effective in making the command of the 15th amendment a reality. But the task remains unfinished. It will not be completed, and hard won progress will be undone if essential safeguards of the act are lost in August 1970, as would be the case under H.R. 4249. To change the terms of its successful operation—either by failing to extend it or by weakening it in any way—would be a serious blow in the continuing efforts to implement the promise of our Constitution.

These joint views then proceed to summarize numerous proposals, beginning with the proposal of the Senator from Maryland (Mr. MATHIAS), the Senator from Hawaii (Mr. FONG), and me on January 31, 1969, with the introduction of S. 818. On April 29, 1969, the Senator from Michigan (Mr. HART) and a bipartisan group of 33 other Senators introduced an omnibus civil rights bill, S. 2029, title IV of which also provided for a 5-year extension of the present act. On June 19, 1969, a bipartisan group of 38 Senators introduced a bill, S. 2456, identical to S. 818. On June 30, 1969, the late Senator Dirksen offered S. 2507, whose provisions are identical to H.R. 4249, discussed below. All four measures were referred to the Judiciary Committee, and the Subcommittee on Constitutional Rights held joint hearings on them on July 9, 10, 11, and 30, 1969.

On Wednesday, July 9, 1969, testimony and statements were received from Senators SCOTT and MATHIAS and from Commissioner Freeman of the Civil Rights Commission. All testified to the need for continuation of the 1965 act as enacted. On July 10, 1969, Senator SCHWEIKER submitted a statement urging extension of the act, and Mr. Clarence Mitchell and Mr. Joseph L. Rauh appeared on behalf of the Leadership Conference on Civil Rights, representing over 125 organizations interested in civil rights. Commissioner Freeman, Mr. Mitchell, and Mr. Rauh presented at length facts demonstrating the need for retention of the act. They each also testified as to the manner in which the provisions of S. 2507—provisions identical to those in H.R. 4249 as reported by this committee—would weaken the Federal Government's ability to ensure in the covered areas that all persons are able to register and vote and have their votes counted without discrimination on account of race.

Further testimony was given by Mr. Warren Richardson, general counsel to the Liberty Lobby.

On July 11, 1969, the subcommittee heard testimony from Mr. Lawrence Speiser on behalf of the American Civil Liberties Union also in favor of extending the provisions of the 1965 act as enacted. The last witness, Attorney General John Mitchell, accompanied by Assistant Attorney General Jerris Leonard, testified on July 11 and July 30, 1969, in support of S. 2507.

On December 11, 1969, the House of

Representatives passed H.R. 4249.¹ The bill was received in the Senate on December 12, 1969, and referred to the committee on December 16, 1969, with instructions under the following order:

Mr. MANSFIELD. Mr. President, I ask unanimous consent that H.R. 4249 be referred to the Committee on the Judiciary with instructions to report back not later than March 1, 1970, and that at the conclusion of morning business on March 1, 1970, or the first legislative day thereafter, H.R. 4249 be made the pending business." (Congressional Record, volume 115, part 13, page 39335)

The Subcommittee on Constitutional Rights then held further hearings on H.R. 5249 on February 18, 19, 24, 25 and 26, 1970. Senator TYDINGS and Mr. Clarence Mitchell both testified in favor of extending the 1965 act on February 18. On February 19, Senator GOLDWATER testified in favor of abolishing residence requirements in presidential elections and submitted an analysis of its constitutionality. Mr. Edward T. Anderson of the Friends Committee on National Legislation and Rev. John M. Wells of the Joint Washington Office for Social Concern of the American Humanist Association, American Ethical Union, and Unitarian Universalist Association also testified.

On February 24, Prof. Archibald Cox of Harvard Law School and Mr. Howard A. Glickstein, staff director of the Commission on Civil Rights, testified in favor of extension of the act. Professor Cox also testified as to the constitutionality of restrictions on residence requirements in presidential elections and of nationwide suspension of literacy tests. Gov. Lester G. Maddox of Georgia and Attorney General R. F. Summer of Mississippi testified in opposition to continuing the act.

On February 25, Mr. Edward T. Anderson testified further. Mr. Vernon E. Jordan, Jr., director, Voter Education Project, Southern Regional Council, Inc., and Dr. Aaron Henry, Board of Christian Social Concerns of the United Methodist Church, described in vivid detail the efforts of Negroes to register under the Voting Rights Act and the tactics employed to thwart them. Sheldon H. Elsen Esq., chairman of the Committee on Federal Legislation of the Association of the Bar of the City of New York, and John D. Feerick, Esq., chairman of the Subcommittee on the Election Laws, Committee on Federal Legislation of the Association of the Bar of the City of New York, also testified.

Finally, on February 26, 1970, Mr. David Norman, Deputy Assistant Attorney General of the Civil Rights Division, Department of Justice, testified. Mr. Norman testified in favor of extending the suspension of literacy tests nationwide and removing residence restrictions

¹ It also should be noted that on May 14 and 15, June 19 and 26, and July 1, 1969, the House Committee on the Judiciary held extensive hearings on continuation of the Voting Rights Act and on related proposals. ("Voting Rights Act Extension," hearings before Subcommittee No. 5, House Committee on the Judiciary, 91st Cong., First Sess., serial No. 3.) (Hereinafter cited "House Hearings.")

on voting in presidential elections. He also discussed the effectiveness of section 5 of the Voting Rights Act of 1965.

On February 26, the subcommittee failed to report any bill for lack of a quorum. The Committee on the Judiciary, as noted above, failed to vote on the amendment offered by the undersigned majority of the committee and, therefore, has reported H.R. 4249 without recommendation.

The joint views then include an historical review of the legislation, and conclusions, which I will summarize.

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

Mr. SCOTT. I am very near the end of this presentation. After I have read the conclusions I will be glad to yield to the Senator from Alabama.

The conclusion states:

Mr. Vernon E. Jordan, Jr., director of the Voter Education Project of the Southern Regional Council, who is intimately familiar with the efforts to register Negro voters under the 1965 Voting Rights Act has vividly summarized the essential question before us—the danger of failing to extend that act in full force:

"I know—as well as any man in this room that Canton and Grenada and Selma and Sandersville and hundreds of other Southern communities stand poised and ready to eliminate the burgeoning black vote in their jurisdictions. The slightest flicker of a green light from Washington is all these white-dominated communities need. When they receive the signal, they will act."

For all the reasons discussed in these joint views, the undersigned have proposed and recommend the amendment in the nature of substitute to H.R. 4249.

Mr. ALLEN. I thank the distinguished Senator from Pennsylvania.

Mr. President, I would like to ask the distinguished Senator from Pennsylvania if the substitute which he has offered does anything more with respect to the ban on literacy tests than to extend that ban to States not now covered by the act? And does it subject the States not now covered by the act to the provisions of the statute applying at present which would allow the Federal Government to send vote registrars into those States, to send election observers into those States, and to require our State authorities to submit to the Attorney General of the United States or the District Court here in the District of Columbia any change in registration or election laws?

Mr. SCOTT. Title 2 simply provides that during the extension period "no citizen—shall be denied the right to vote in any such election" because of his failure to comply with any State or political subdivision test the right to participate in any Federal, State or local election in which the provisions of section 4(a) are not in effect by reason of determinations made under section 4(b) of the act.

Mr. ALLEN. Yes. All that does is extend the ban on literacy tests throughout the Nation.

Mr. SCOTT. That is substantially what is being done; to apply equally the effect of the law.

Mr. ALLEN. But it does not extend to States not now covered by those provisions providing for Federal registrars, Federal election observers, and the re-

quirement that a State must obtain the approval of the Attorney General before it makes any change in its registration or election laws.

Mr. SCOTT. It would, however, apply to any place where, under the determination made in accordance with the 1965 act, situations exist where there is found an inequality of status as to the right to vote.

Mr. ALLEN. Yes; but it does not extend the particular provisions to which I alluded to States not now covered by the act?

Mr. SCOTT. Section 3 of the existing act, I may say to the distinguished Senator, does in fact make such a provision, but I believe that the implementation of it is not automatic. Section 3 provides that whenever the Attorney General institutes a proceeding under any statute to enforce the guarantees of the 15th amendment in any State or political subdivision, the court shall authorize the appointment of examiners, and the rest of the procedures follow.

Mr. ALLEN. Then, the distinguished Senator would have no objection to applying the provisions to which I have referred to States not now covered by the act?

Mr. SCOTT. I would be glad to see the wording by which that is undertaken to be done and to look at it very carefully.

Mr. ALLEN. Yes. In effect, then, the provision with respect to literacy tests in States not now covered by the act is to provide for a less literate electorate. Is that not correct?

Mr. SCOTT. That, of course, assumes that by not demanding literacy tests, we have a less literate electorate, and that overlooks the fact that every year that goes by we have a more literate electorate, because we have more education, more funds for schools, more people in schools, more graduates, more higher educational facilities available. I would think that the electorate is more literate.

I recall that during the debate on the 1965 act, it was argued that some provisions of that act were not needed because we already had a literate electorate.

I do not think the intent of the act could justly be construed to be a move toward a less literate electorate, but toward the abandonment of State restrictions which are deemed to be unfair or unjust to the electorate.

Mr. ALLEN. Returning again to the original question, the punitive provisions of the act as now in effect would not be applied to the remaining States?

Mr. SCOTT. Well, again we have a question which carries with it some freight that I do not want to assume—that is, punitive provisions of the act. The act of 1965 does provide for implementation of the 15th amendment, and if States or counties are not implementing the 15th amendment, in my judgment they ought to be required to do so no matter what part of the country we find them in.

Mr. ALLEN. If the State of Pennsylvania wanted to make changes in its election laws or voter registration laws,

would it have to go to the Attorney General of the United States to get approval of that change, as is the case in Alabama?

Mr. SCOTT. It would not, because it made, many years ago—nearly 100 years ago—the changes that are sought to be made more uniform throughout the country. It would not have to because 100 years ago we did what we had to do.

Mr. ALLEN. It still would not have to do it?

Mr. SCOTT. That is right, because we have already done it.

Mr. ALLEN. The Senator thinks we would get a more literate electorate by abolition of the literacy tests?

Mr. SCOTT. I think we are getting a more literate electorate every year that goes by, not by abolishing literacy tests, but by making educational facilities more available to all.

Mr. ALLEN. I thank the Senator.

Mr. SCOTT. I thank the Senator.

At this point, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ALLEN. Mr. President, I would like to make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. Is the amendment in the nature of a substitute which is pending subject to amendment, or must amendments be perfecting amendments to the House bill?

The PRESIDING OFFICER. As the Chair understands the situation, the amendment offered by the Senator from Pennsylvania and other Senators is in the nature of a substitute for the bill and will be treated as original text for the purpose of further amendment.

Mr. ALLEN. That is the ruling of the Chair?

The PRESIDING OFFICER. That is the Chair's opinion.

Mr. ALLEN. The amendment offered by the Senator from Pennsylvania is subject to amendment?

The PRESIDING OFFICER. Yes.

Mr. SCOTT. Mr. President, if the Chair will permit a further parliamentary inquiry, is it not correct that amendments may be offered to the substitute amendment, or amendments may be offered to proposed perfecting amendments to the substitute? Is that correct?

The PRESIDING OFFICER. That is the opinion of the Chair.

Mr. SCOTT. I thank the Chair.

The PRESIDING OFFICER (Mr. TALMADGE in the chair) subsequently said: The Scott substitute is a complete substitute for the bill. Therefore, that amendment, under the precedents of the Senate, is treated as original text for the purpose of amendment, just as the bill is treated as original text.

Thus, both the bill and the substitute

amendment are open to amendments in two degrees, with any amendment to the text taking precedence over amendments to the substitute.

Mr. HART. Mr. President, I hope that with the explanation that is now available by the introduction into the RECORD of the memorandum reflecting the position of the 10 members of the Judiciary Committee, our colleagues will have ample opportunity to appraise the approach that the majority of the committee is suggesting. I think the Senator from Pennsylvania has, in very brief compass, effectively described the motive the memorandum expands in its explanation.

As we start this discussion, I think the one point that should be made is that history will dispute the effectiveness of some of the civil rights laws we have passed in this country. Either the goal they sought to achieve has not been achieved or, in retrospect, the goal, though achieved, was not of great significance. But I do not think we have to await history's verdict to describe the 1965 Voting Rights Act as the most effective legislative action to deliver on the promises of the 15th amendment in history. The 1965 act works. Its abandonment, its repeal, would be in effect throwing away success.

We do not have enough successes around here to be wasteful of them. The condition of this country argues very strongly that when we manage to develop an instrument effective to enable us to deliver on promises of longstanding, we had better not dilute it, we had better not abandon it; we had better retain it. This, then, underlies the conviction that persuaded the majority of the Judiciary Committee to make the recommendation that is in the form of the Scott-Hart substitute which is now before us.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HRUSKA. Mr. President, on June 30 of last year, the late Senator from Illinois, Mr. Dirksen, introduced, on behalf of the Nixon administration, a voting rights bill, S. 2507. On the same day an identical bill was introduced in the House of Representatives. Since the Voting Rights Act of 1965 expires this August, the administration sought to introduce appropriate legislation early in the 91st Congress to permit enactment before the existing law expired. This was a laudable goal, and the prompt introduction of these bills permitted Congress to move ahead.

The House Judiciary Committee had hearings on the many proposals made regarding future voting rights legislation. In December, after the extensive debate and thorough examination of the facts and issues, the House passed H.R. 4249, the Nixon administration bill. The bill as passed by the House of Represent-

atives is now before this body. Only Senate action is now required.

It should be noted, Mr. President, that the House Judiciary Committee did not report the Nixon administration bill, but reported a measure of its own, which was a simple extension of the present voting rights act for another 5-year period.

There followed a rare, spectacular, and rather dramatic legislative action on the floor of the other body. The bill recommended by the committee was laid to one side and the administration bill, virtually as introduced in the House of Representatives, was approved by that body and is now before us.

When the House bill was sent to the Senate, it was referred to the Senate Judiciary Committee, and consideration of the bill was made the responsibility of the Constitutional Rights Subcommittee, on which I am ranking Republican member. The Senator from North Carolina (Mr. ERVIN) is chairman of the Subcommittee, and I wish to commend him for the excellent and complete hearings that were conducted by the subcommittee. In July of 1969, the subcommittee heard from many witnesses, including the Attorney General of the United States. Following referral of H.R. 4249, Senator ERVIN sought diligently to hold additional meetings. Regrettably, due to full committee considerations, those hearings could not be completed until last week.

The bills before the subcommittee, and those considered by the House, fall into two basic categories: those that seek merely to extend the 1965 act, and those that seek to amend as well as extend the 1965 act. H.R. 4249 seeks to amend as well as to extend. The difference, in my opinion, is primarily that of approach rather than of objective. They share the same fundamental purpose—that is, to enforce the guarantee of the 15th amendment of the U.S. Constitution that the right to vote shall not be denied on account of race or color.

Both approaches are committed to the need to make more effective the voting rights of our citizens who are being denied the vote due to racial discrimination. However, H.R. 4249 goes further. It seeks, in addition, to make more effective both the rights of persons nationwide who are denied the opportunity to vote because they are undereducated and the rights of those who are denied the opportunity to vote in presidential elections because they cannot meet local residency requirements.

Both approaches provide procedures for the appointment of Federal voting observers and examiners. The 1965 act, however, applied this procedure only to six States and parts of three others. The pending bill, however, would go beyond that. It would extend this procedure to every State in the Union.

Both approaches provide procedures for challenging the laws of States or political subdivisions which are allegedly discriminating against the right of citizens to vote due to race or color. Again, basic remedies of the 1965 act apply only to six States and parts of three others. H.R. 4249, however, would apply to all States equally.

I believe these differences are strong arguments for H.R. 4249, as approved by the other body. The Nixon administration unqualifiedly supports this proposal, and the House, by a majority vote, has adopted this proposal.

I ask unanimous consent to have printed at this point in the RECORD the letter of December 10, 1969, from the White House, signed by the President, addressed to GERALD R. FORD, minority leader of the U.S. House of Representatives.

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

THE WHITE HOUSE,

Washington, December 10, 1969.

HON. GERALD R. FORD,
Minority Leader of the U.S. House of Representatives, Washington, D.C.

DEAR JERRY: I am aware that the House is considering a five-year extension of the Voting Rights Act of 1965, and alternatively, as an amendment, the Administration-proposed nationwide voting rights bill, H.R. 12695.

I strongly believe that the nationwide bill is superior because it is more comprehensive and equitable. Therefore, I believe every effort must be made to see that its essence, at least, prevails.

I would stress two critical points:

1. Instead of simply extending until 1975 the present Voting Rights Act, which bans literacy tests in only seven states, as the Committee bill would do, the nationwide bill would apply to all states until January 1, 1974. It would extend protection to millions of citizens not now covered and not covered under the Committee bill.

2. H.R. 12695 assures that otherwise qualified voters would not be denied the right to vote for President merely because they changed their state of residence shortly before a national election.

In short, the nationwide bill would go a long way toward insuring a vote for all our citizens in every state. Under it those millions who have been voiceless in the past and thus voiceless in our government would have the legal tools they need to obtain and secure the franchise. Justice requires no less.

For certainly an enlightened national legislature must admit that justice is diminished for any citizen who does not have the right to vote for those who govern him. There is no way for the disenfranchised to consider themselves equal partners in our society.

This is true regardless of state or geographical location.

I urge that this message be brought to your colleagues, and I hope they will join in our efforts to grant equal voting rights to all citizens of the United States.

Sincerely,

RICHARD NIXON.

Mr. HRUSKA. This letter will be the subject of a good deal of discussion. Comment has already been made on it on the floor this afternoon. I should like to point out that the plain purport of this letter is contained in the paragraphs that I shall read:

I strongly believe that the nationwide bill is superior because it is more comprehensive and equitable. Therefore, I believe every effort must be made to see that its essence at least prevails. I would stress two critical points.

At that point, Mr. President, the letter goes on to refer, in paragraphs 1 and 2, to the matter of the suspension of all literacy tests, and the second point is the assurance that otherwise qualified voters not be denied the right to vote for Presi-

dent merely because they changed their State of residence shortly before a national election.

Mr. President, this nationwide voting rights bill can be summarized, briefly, in this way:

First. It would suspend, nationwide, all literacy tests in all 50 States until January 1, 1974.

Second. It would provide, nationwide, a uniform residence requirement for all Americans who want to vote in presidential elections.

Third. It would grant, nationwide, statutory authority to the Attorney General to station voting examiners and observers in any jurisdiction in all 50 States if he chooses and if the facts warrant, in order to enforce the right to register and to vote.

Fourth. It would provide, nationwide, statutory authority for the Attorney General to start voting rights lawsuits in Federal courts to prevent discriminatory practices and to suspend discriminatory voting laws in all 50 States.

Fifth. It would launch a nationwide study of the use of literacy tests or devices and other corrupt practices which may abridge voting rights in all 50 States. A national voting advisory commission would be created to report its findings prior to the expiration of the nationwide literacy test suspension in 1974.

Mr. President, I am highly gratified, as most people are, that 800,000 black Americans have been registered to vote in the six States that have been covered under the formula of the 1965 Voting Rights Act. The 1965 act was directed at the discrimination against Negroes in Southern States resulting primarily from the use of literacy tests. However, it is becoming a well-known fact that literacy tests have the effect of discriminating against all educationally disadvantaged citizens of all races and colors and residents in many of the 50 States.

As Attorney General John Mitchell said during the hearings of the Constitutional Rights Subcommittee last July:

The widespread and increasing reliance on television and radio brings candidates and issues into the homes of almost all Americans. Under certain conditions, an understanding of the English language, and no more, is our national requirement for American citizenship.

Perhaps, more importantly, the rights of citizenship, in this day and age, should be freely offered to those for whom the danger of alienation from society is most severe—because they have been discriminated against in the past, because they are poor, and because they are under-educated. As responsible citizenship does not necessarily imply literacy, so responsible voting does not necessarily imply an education. Thus, it would appear that the literacy test is, at best, an artificial and unnecessary restriction on the right to vote.

A study by the U.S. Civil Rights Commission shows that, in general, States of the North and the West which have literacy tests have lower registration and turnout rates than those States without literacy tests. It can be little doubted that literacy tests in all States that have them inhibit voting by minority group persons and educationally disadvantaged

persons. A nationwide ban on literacy tests as proposed in H.R. 4249 would add numbers of blacks and whites, Mexican Americans, Puerto Ricans, and American Indians, as well as others, to the voting rolls.

Mr. President, I now read further from the statement of the testimony of Attorney General Mr. John Mitchell:

The proposal for a simple 5-year extension of the 1965 Voting Rights Act leaves the undereducated ghetto Negro as today's forgotten man in voting rights legislation.

He would be forgotten both in the 12 States outside the South which have literacy tests now and in the 31 other States which have the ability, at any time, to impose them.

It is not enough to continue to protect Negro voters in seven States. That consideration may have been the justification for the 1965 act. But it is unrealistic as of today.

I believe the literacy test is an unreasonable physical obstruction to voting even if it is administered in an evenhanded manner. It unrealistically denies the franchise to those who have no schooling. It unfairly denies the franchise to those who have been denied an equal educational opportunity because of inferior schooling in the North and the South.

But perhaps, most importantly, it is a psychological obstruction in the minds of many of our minority citizens. I don't have all the answers to this problem. But I suggest to this subcommittee that it is the psychological barrier of the literacy test that may be responsible for much of the low Negro voter registration in some of our major cities.

Because records on voter registration and voting are not kept on a racial basis in the North, it is difficult to determine conclusively the level of Negro voting participation.

In most Deep South counties subjected to literacy test suspension, between 50 and 75 percent of the Negroes of voting age are now registered to vote. It is clear that this level is higher than Negro voter participation in the ghettos of the two largest cities outside the South—New York and Los Angeles—where literacy tests are still in use. Furthermore, in nonliteracy test northern jurisdictions like Chicago, Cleveland, and Philadelphia, Negro registration and voting ratios are higher than in Los Angeles and New York. Consider, for example, the 1968—

And here I pause and depart from the quotation long enough to say, Mr. President, not 1964 but 1968—

voter turnout in New York City. In the core ghetto areas of Harlem, Bedford-Stuyvesant, the South Bronx and Brownsville-Ocean Hill, six nearly all-Negro assembly districts (55th, 56th, 70th, 72d, 77th, and 78th) cast an average of only 18,000 votes in 1968 despite 1960 census eligible voter population of 45,500 to 55,000. On average, fewer than 25,000 voters were registered in these districts.

In addition since congressional districts are roughly equal in population, voting statistics from such districts may be used for the purpose of comparing New York and California Negro vote turnouts with those of other States.

In the nine northern big city States—Massachusetts, New York, New Jersey, Pennsylvania, Ohio, Michigan, Illinois, Missouri, and California—there were only 10 congressional districts where fewer than 100,000 votes were cast for Congress in 1968. Of the 10, one was in California; and eight were in New York. Each of the nine districts—the 21st California; the 11th, 12th, 14th, 19th, 20th, 21st, and 22d New York—consists, largely or partly of Negro ghetto areas.

These statistics illustrate a prima facie relationship between northern literacy tests and low voter participation by Negroes.

The U.S. Supreme Court told us in the Gaston County case which was decided in 1969, that any literacy test would probably discriminate against Negroes in those States which have, in the past, failed to provide equal educational opportunities for all races.

Many Negroes, who have received inferior educations in these States, have moved all over the Nation. The Bureau of the Census estimates that between 1940 and 1968, net migration of non-whites from the South totaled more than 4 million persons. Certainly, it may be assumed that part of the migration was to those Northern and Western States which employ literacy tests now or could impose them in the future; and the effect of such tests, as in the Gaston County decision, would be to further penalize persons for the inferior education they received previously.

Thus, it would seem to be highly inequitable to permit Northern and Western States to administer a literacy test to such persons because they would still be under the educational disadvantage offered in a State which had legal segregation.

Let me mention that the National Association for the Advancement of Colored People, the American Civil Liberties Union, and the U.S. Civil Rights Commission, among others, have all urged the elimination of literacy tests as a precondition to voting. They have urged this ban nationwide.

Perhaps the most significant change which H.R. 4249 would effect in comparison with the 1965 act is in the spirit of the law. Under the formula of the coverage under the 1965 act, any State or political subdivision falling within coverage cannot make any change in its election laws without coming to Washington for permission. Under the 1965 act, it is assumed that any such change is intended to cheat the people of their rights under the 15th amendment of the Constitution.

The fundamental presumption of innocence is denied these six States and parts of three others, under an arbitrary and outmoded registration and voting turnout formula. That is based solely on the 1964 election, almost 6 years ago. Mr. David Norman, testifying before the Constitutional Rights Subcommittee for the Department of Justice, pointed out that not only would a change in filing fee for an elective office from \$5 to \$6 have to be approved by the Attorney General of the United States, or by a Federal court in the District of Columbia, but also that for any change from \$5 to \$3, there would be required that same preliminary permission from either the Attorney General or the Federal district court in the District of Columbia.

These States and subdivisions covered by the 1965 act are presumed guilty and prevented from managing their own electoral affairs until they prove themselves innocent in Federal court—not their own Federal district courts but in the Federal court of the District of Columbia.

Let us examine the broad merits of the administration bill, from the points of view that I have just been discussing.

First, it abandons the onus of regional legislation that exists with the 1965 act. That act was passed, as I will recall, for the purpose of bringing extraordinary remedies to bear on a few States of the Union where voting discrimination seemed most prevalent. This judgment concerning coverage or noncoverage, as the case may be, was based on the registration and voting records of these States in the 1964 presidential election. The act's formula was a departure from the general rules of good legislation, and, I feel, was a troublesome precedent for the future of our Federal-State relations. The Congress, however, considered the problem to be critical and the formula contained in the 1965 act was considered to be the only solution. I want the RECORD clear at this point that I voted for that act, and am satisfied that the remedies applied had salutary results. We were told at our hearings last year that over 800,000 Negroes have been registered in the covered States since passage of the act.

Mr. President, times and circumstances change. Problems, while once critical and demanding of extraordinary remedies, over time evolve toward solutions. Registration in these covered States is now as good or better than in many other States in the Union. Extraordinary remedies, in my opinion, should be necessary only to restore a situation to circumstances that can be dealt with by traditional and proven procedures. That time has now come.

Second, H.R. 4249 extends the scope of the Attorney General's power to correct abuses of the 15th amendment rights anywhere in the country. This bill grants him direct authority to send Federal voting observers and examiners to any of our 50 States. Up until now, under the 1965 act, the Attorney General could not, as to States other than the covered States, send an examiner or a registrar into any voting precinct or voting jurisdiction without first receiving permission from a Federal court. The act which we are considering today also clarifies the Attorney General's power to bring lawsuits and obtain injunctions against discriminatory laws in any State or political subdivision in the Nation. It extends his power, once a particular case of discrimination has been proven in a court of law, to suspend future laws or practices in the appropriate States or subdivisions as long as the Federal court having jurisdiction considers it necessary. Thus, while H.R. 4249 would relieve the six presently covered States from the burden of regional legislation, it would not weaken the Attorney General's ability promptly to correct voting abuses anywhere in the Nation, including those States.

I think that it is obvious that discrimination does not exist in just one part of the country. Unfortunately, discrimination occurs in different places, in differing degrees, all over the country. The administration's recommended bill would extend coverage of the Voting Rights Act to all of those instances of discrimination.

A third change from the present act is that the administration's bill would re-

turn the thrust of enforcement back to the judicial processes and away from the administrative procedures which now exist. This is important. Our system of government is based on checks and balances, and the judiciary has been the most consistently reasonable and fair arbiter in this system. Administrative procedures, in place of judicial procedures and remedies, might be necessary under extraordinary conditions, but should not be extended once the basic conditions improve. The unreviewable suspension power of the Attorney General over State and local laws contained in the 1965 act is such an administrative power; it has served its function. Registration and turnout of voters in the covered States has greatly increased. It is time now to return to our courts of law.

Furthermore, as I previously discussed, H.R. 4249 prohibits the use of literacy tests in any State in the Nation.

Finally, Mr. President, the administration bill will limit the application of State residency requirements in presidential elections. It may be reasonable to require a period of residency for local elections, but such a requirement has no relevance to presidential elections. Presidential elections receive nationwide coverage, and the issues are nationwide in scope. The Bureau of the Census indicates that 5.5 million persons were unable to vote in the 1968 presidential election due to local residency requirements. In an increasingly mobile society, this problem must be resolved.

Mr. President, I urge my colleagues to give fair and reasonable consideration to the objectives of H.R. 4249. Let me say again that those who support this bill, and those who support substitute proposals, share the same goal. That goal is to guarantee the right of each citizen to vote, recognizing in this guarantee that voting is the most fundamental right in a democratic society. The prominence of this right to the durability of our system, and the dedication that we share to the enforcement of that right, should enable us to enact the necessary legislation.

Mr. President, it would be well to remind ourselves at this time that the constitutional safeguards in regard to voting are not addressed to a single group of citizens within the United States. They are addressed to and they seek to embrace all citizens of this Nation—the people are not just any particular group of people or just within a few States, but all the people everywhere in the Nation.

The administration bill, H.R. 4249, as approved by the House of Representatives and now pending before us, seeks to put it on that basis.

It would not, either by way of substance or procedure, be directed at just a few States on a regional basis. Any State or political subdivision anywhere in the Nation would be subject to the enforcement procedures of this bill if they are derelict in their constitutional duties of registering their citizens and allowing them to vote. In this sense, few can deny that bill would be a highly su-

perior law on a nationwide basis as opposed to a bill which is regional in its approach.

Mr. President, I yield the floor.

Mr. HANSEN. Mr. President, the facts about voting in the cold light of March 1970 are very different from those of the hot summer of 1965 when voting rights was last considered here. The gains have been impressive. Pursuant to the 1965 act the Department of Justice had sent examiners and observers into 64 counties in the South. Since August 6, 1965, when literacy tests were suspended, over 800,000 Negro voters have been registered in the seven States covered by the act. More than 50 percent of eligible Negro citizens are now registered in every Southern State. More than 375 voting laws have been submitted to the Attorney General for approval. Four hundred blacks have been elected to State and local offices throughout the South.

These are all real gains for minority citizens who before 1965 had never had the opportunity to vote or hold elective office. The 1965 act works; more than 4 years of experience with it proves that. But it is not perfect. That is why I resist the effort to simply extend its life until 1975. Why not expand its coverage, strengthen its enforcement machinery, cure its defects? I say there is no reason why not. And that is why I support the bill, H.R. 4249, now under consideration. It is a carefully considered package which would do all the things I have suggested.

Primarily, it will blanket the Nation with the same protection the present act reserves for one region. Why should minority citizens in Harlem and Watts or Roxbury or Hartford be denied the same protection as blacks in Alabama or Georgia? They should not. No one can argue the opposite. This bill will see that they are not. Literacy tests will be banned nationwide, voting observers and examiners will be able to function in all 50 States, voting rights suits will be able to be brought in any Federal district court. These are all constructive and desirable reforms that H.R. 4249 will accomplish which an extension of the present act would not.

Now is the time to make these reforms, not 5 years or 10 years from now. The 1965 act has started the momentum for action which this bill will carry out. We are not scrapping the tested provisions of the old law as some have suggested, we are adding to them new ones which will guarantee to all the rights set forth in the 15th amendment.

H.R. 4249 proposes useful, workable reforms which this Nation needs. The President and the Attorney General have suggested a sound approach to voting rights reform. Those proposals, embodied in the bill now under consideration, deserve the support of everyone in this body. They have mine.

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

The PRESIDING OFFICER (Mr. SYMINGTON in the chair). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. HART. Mr. President, earlier I indicated the feeling on the part of the majority of the committee as reflected in this informal memorandum report, that omission of present section 5 of the Voting Rights Act from any extension would be a fatal failure.

I wish to call particular attention to the point that was made by the Chairman of the Commission on Civil Rights, a very distinguished educator, the president of Notre Dame University, Father Hesburgh. He was commenting on the bill that we received from the House, H.R. 4249, the bill to which the Scott-Hart amendment is filed as a substitute. Father Hesburgh criticized H.R. 4249 as being much weaker than a simple extension of the Voting Rights Act of 1965.

Father Hesburgh has said that repeal of section 5 in its present form, in no sense an advance in protection of the voting rights of American citizens.

He said further:

It is a distinct retreat. It is an open invitation to those states which denied the vote to minority citizens in the past to resume doing so in the future through insertion of disingenuous technicalities and changes in their election laws.

[It] would turn back the clock to 1957. . . . Now is not the time to gut one of the act's key provisions. (House Hearings at 299.)

Father Hesburgh stated it very forcefully. The position he takes is the position that the House Judiciary Committee took; it is the position that 10 of us on the Committee on the Judiciary of the Senate are taking. To have a complete and effective guarantee of the 15th amendment we believe it is essential that section 5 be extended for another 5 years.

A brief review of some of the events that have occurred in the intervening 5 years since the adoption of the 1965 act points up the reasons that persuaded us to urge extension of section 5.

The staff director of the U.S. Commission on Civil Rights, Mr. Howard A. Glickstein, has described some of those incidents. I think he makes a record that is solid in support of the proposition that these events of the intervening 5 years require retention of the preclearance provisions of section 5. This is the section which requires that before any adjustment is made to implement a new voting practice or anything affecting the outcome of elections, holding office, conduct of elections, or the like, such change must be approved by either the Attorney General or a three-judge Federal court.

Mr. Glickstein put the matter this way:

In our earlier testimony, we briefly explained why Section 5 of the Act should be retained in its present form. This time, we would like to explain more fully why that section is so crucial—partly because there seems to be some confusion concerning what that section does and partly because the threat of it being repealed has been made more serious by passage of H.R. 4249.

Noting the Supreme Court decision in the case of South Carolina against Katzenbach, Mr. Glickstein observed that:

The Voting Rights Act of 1965 was designed to end for once and all those practices which have for decades deprived Negro citizens of their vote. The pre-enforcement submission requirement of Section 5 was compelled by their tendency to change forms without changing purpose.

Since its enactment, Section 5 has been interpreted by the Supreme Court to cover any State enactment which alters election laws in even a minor way. Based on the Statute's legislative history, the Court concluded that "the Voting Rights Act was aimed at the subtle, as well as the obvious State regulations which have the effect of denying citizens their right to vote because of race." Thus, the statute was held to cover changes in election laws which permit the election of county officers at large instead of on a district basis, which provide for the appointment of a previously elective official, which change the requirements for individual candidates running in elections, and which modify rules on assisting disabled voters.

Here are some of the instances that Mr. Glickstein cites which have occurred since the adoption of the 1965 act, and which make it very clear the danger we run if we fail to extend section 5 with its preclearance obligation.

In 1968 Louisiana passed a law permitting elections for police juries to be conducted on an at large basis in each Louisiana parish. Before that enactment, police juries were selected by subdivisions of parishes called wards. In 109 wards, Negroes were in the majority, according to the 1960 census, while Negroes only constituted the majority of voters in five parishes. Thus, a change from ward to at large voting would have the effect of diluting the actual or potential voting power of the Negro inhabitants.

This, happily, because of the preclearance requirement which is involved, was rejected.

Another example of the misuse of election laws which occurred in the intervening 5 years since the adoption of the 1965 act occurred in Mississippi. There the legislature passed a resolution submitting to the voters a constitutional amendment to permit the legislature by two-thirds vote to consolidate adjoining counties. Opponents of the resolution charged that it was designed to permit consolidation of counties heavily populated by Negroes with predominantly white counties: "All they're trying to do is avoid a few Negro votes," charged Senator E. K. Collins of predominantly white Jones County. Senator Ben Hilburn of predominantly white Oktibeha County, who also opposed the measure, commented: "We get so concerned because some Negroes are voting in a few counties, we are going to disrupt our entire institutions of government."

There is another example of the continuing tendency to seek, even under the 1965 act, ways to discriminate against one who seeks to vote.

In July 1968, Anniston, Ala.—the population of which is about 27 percent black—changed its municipal elections by wards to election at large. The city was divided into five wards, each to be represented by one councilman. Although

each councilman must be a resident of his ward, he is elected by the city at large. Since the population of two of the five wards is predominantly black, Negroes believe that the requirement of at-large elections was designed to prevent them from electing their own councilmen.

Another recent enactment required a voter to sign a poll list at the voting machine before he would be allowed to enter the machine to vote. This law, passed in 1969, would have the same effect as reinstatement of a literacy test and clearly violated the Voting Rights Act of 1965.

Here is another example: a bill is pending in Mississippi which would change the qualifications of candidates for school boards. The change would require that only high school graduates could run for these offices. Since in Mississippi a higher percentage of whites than blacks are high school graduates, this law could keep blacks from controlling school boards in areas in which they outnumber whites in registered voters.

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

Mr. HART. Surely.

Mr. SPONG. I was not here this morning when the Senator from Pennsylvania (Mr. SCOTT) made his presentation, but the Senator has talked about violations in the past 3 or 4 years. One of the States under the present Voting Rights Act is the State of Virginia. First, I would like to ask whether, in the information that the Senator or the Judiciary Committee has received, they have had any knowledge of violations of this act that have occurred in any political subdivision in the Commonwealth of Virginia?

Mr. HART. I would have to acknowledge that I am reluctant to be stuck with my answer. I have no recollection, and would ask leave of my colleague from Virginia, if my answer is not correct, after I advise him first, to correct my answer in the RECORD.

Mr. SPONG. That is all right. I asked the question only because of the Senator's review of the matter and because he has been citing instances.

I understand, from reading what there is in the Scott-Hart amendment or substitute as introduced, that the literacy test would be national in application.

Mr. HART. The suspension would be national in application.

Mr. SPONG. The suspension; yes, I would like to ask if any of the other features of the present Voting Rights Act would be national in application?

Mr. HART. The present Voting Rights Act—and it would not be changed, merely extended—already authorizes, in those States where the triggering device is not automatic, applications by the Attorney General for the same remedies available in the "trigger areas." And, upon a finding of discriminatory practices, the court can institute test suspension, preclearance registrars, examiners, and so on. But the Scott-Hart substitute does not extend the formulation of the automatic triggering of the 1965 act. There is simply no evidence of the need for automatic coverage in the North.

Mr. SPONG. I wonder if the Senator from Michigan is aware that the State of Virginia could have avoided this requirement. I shall not take the Senator's time nor the time of the Senate to go into it this afternoon, but they were eligible to have removed themselves from this requirement perhaps 2 years ago, and for reasons I shall not go into, that was not done. Now they find themselves, if this provision is adopted, still subject to the triggering device under a law from which they could have been excluded, and a law which will not be national in its application.

I ask the Senator if he is aware that Virginia could have removed itself?

Mr. HART. I was not aware of that, and I think that perhaps at a time more convenient for the Senator from Virginia, we would all like to know why Virginia did not elect to withdraw itself and join the other 40 or 45 States excluded.

Mr. SPONG. Regardless of whether Virginia removed itself or not, I think the people of Virginia, if they had met all the other qualifications for being removed in terms of voter participation, and in the absence of any complaint about the practices in the State, would have a right, under the equal protection of the laws, to expect that they would be treated no differently than the people of Michigan, the people of Pennsylvania, or the people of any other State.

I wanted to apprise the Senator from Michigan of that fact, because I have sympathy for voting rights. I think there is a great deal of good in the bill and in the substitute that should be enacted. But the Senator from Virginia cannot acquiesce in seeing his constituents treated differently—I shall not use any other word at this time—from the people of Michigan, in the absence of any complaints, and I wanted to make that position known.

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

Mr. HART. Surely.

Mr. HOLLAND. As I recall, in the case in the Supreme Court, and its decision which dealt with the poll tax law of the State of Virginia, the specific statement is made in the majority opinion that no complaint has been made to the effect that Negroes are being discriminated against within the Commonwealth of Virginia. Does the Senator from Michigan remember that, or the Senator from Virginia, either of them?

Mr. SPONG. I am aware of that, and I assure both the Senator from Michigan and the Senator from Florida, who has added this fact to the colloquy, that I want to see all the citizens of Virginia protected as to their voting rights, but I want to see them treated just the same as everyone else in the United States.

Mr. HART. I thank the Senator from Virginia.

Mr. HOLLAND. If the Senator will yield further, there is such a recital in either the majority opinion or in both or all the opinions. I am not sure whether it is also in the minority opinion, but I think it is.

But I was particularly struck by the fact that it appeared in the majority opinion, written by Mr. Justice Douglas,

who made it very clear that there was no statement at all of any discrimination, but that nevertheless, in his opinion, the State should not be allowed to prescribe the poll tax as a qualification for voting.

The minority opinion, very vigorously written, is the one that I agreed with, of course; but I did think that Mr. Justice Douglas at least was frank in his recital of the decision of the Court, which he wrote.

Mr. SPONG. I thank the Senator from Florida and the Senator from Michigan.

Mr. HART. I thank the Senator from Florida, and I think it appropriate, once again, to note for the record that there was no Member of this body more forceful nor effective in lifting the poll tax as an impediment to the exercise of the franchise whatever the motive, than was the Senator from Florida.

Mr. HOLLAND. I thank my distinguished friend, and I hope he will be generous enough to say that the motive of the Senator from Florida was good; but whether he does or not, the Senator from Florida says so.

Mr. HART. No, no; I was not questioning whatever the motive of the Senator from Florida. I was speaking of the motive for the poll tax.

Mr. HOLLAND. Oh, I understand now better what the Senator said.

Mr. SPONG. I would like to say to the Senator from Michigan that I believe I have a 12-year record in the Virginia General Assembly of advocating the removal of the poll tax.

Mr. HART. I must clarify my comment, if it was obscure. I remember in our earlier debates here, the long arguments as to who thought up the poll tax, and for what reason. I guess the history is a little mixed on that; and I suppose it was with reference to that that I made the statement as to the motive.

Mr. HOLLAND. I accept the generous statement of the Senator from Michigan, and, as matter of fact, the Senator from Florida was indulging in a little pleasantries, because he knew that the Senator from Michigan had not attacked his motives.

Mr. ERVIN. Mr. President, will the Senator from Michigan, without relinquishing his right to the floor, permit the Senator from North Carolina to indulge in the effrontery of describing the history of the poll tax? If so, the Senator from North Carolina will be glad to do so.

Mr. HART. Mr. President, we are always glad to have the Senator from North Carolina discuss matters in this field.

Mr. ERVIN. Originally, in the colonies and in the States of the Union after the colonies became a free and independent country, men were required to work on the public roads a certain number of days each year. The poll tax was originally adopted as a substitute for their personal labor. Then, instead of having to work so many days in keeping the roads they traveled in repair, they were excused from doing that work on conditions that they pay a poll tax. That is one of the origins of the poll tax.

The poll tax also had another origin. It was proposed, in some of the States, as

a means of raising revenue. It was proposed at that time that no man could vote unless he had paid not only his poll tax, but all his property taxes.

So the poll tax has been in existence in the United States a long time. It did not originate in any desire to keep persons of any race from voting, because persons of the black race at the time of the origin of the poll tax were largely in slavery, and were not permitted to vote for that reason. The poll tax is a tax of great antiquity in this country.

Mr. HART. I wonder if the Senator from North Carolina would agree that as time passed, as the slave was made free, as he became eligible to vote, the retention of the poll tax was motivated, in part, at least, by a desire to add that as an additional hurdle before he could actually land inside the voting booth.

Mr. ERVIN. A poll tax was never abolished as a revenue-raising tax. As the Senator from Michigan knows, we had a fratricidal war, after which Congress passed what are known as the Reconstruction acts. Under the Reconstruction acts, Congress undertook to do indirectly just what the Voting Rights Act of 1965 did directly. Congress undertook to deny to the States the right to prescribe qualifications for voting. It provided that the States which had attempted to secede from the Union should not be permitted to have representation in the U.S. Senate or House of Representatives until they adopted State constitutions which secured to every person 21 years of age and upward the right to vote, subject to certain exceptions, such as length of residence, and the like. As a consequence, the South was compelled to adopt State constitutions which extended the right to vote to persons 21 years of age and over, subject to certain requirements of residence, and the like.

As a result of this, the former slaves, who were largely illiterate and without any understanding of government, were admitted to the ballot box. The Southern States were allowed to have representation in the U.S. Senate and House of Representatives again.

I add with great reluctance that Senators from the Southern States are not yet entitled to be full-fledged Members of this body, because whenever the Senate has before it bills in which they are particularly interested, such as the present bill, they are denied the right to develop adequately, their opposition to the bills, because they are required to yield back time under time limitations, as happened in this case.

As a result of this influx of new voters, we had in many of the Southern States, as in North Carolina, legislatures which were controlled in large part by carpetbaggers—men who came to the South with nothing in the world but a carpetbag and a pair of socks, and who ultimately went away with great wealth, which they had extorted from the poverty-stricken people of the South. We did not have the veneration for people in poverty in those days that we now have. The way the carpetbaggers largely got the money was by controlling legislative bodies and obtaining the passage of laws

by corruption, and the like, which resulted in the issuance of State bonds, and which in large measure they embezzled.

It became apparent to the people of North Carolina that we could not have sound State government in North Carolina until we excluded from the power to control the government of the State people who were so illiterate that they were incapable of participating wisely in government. Then we extended our poll tax not only to be a revenue-raising measure but also to be a qualification for voting, and provided that persons who failed to pay a poll tax could not participate in State elections.

I have never had any feeling that a man who did not care enough about the government which provided an education for his children, provided for the roads to travel over, and provided for the police protection to save his life or to prevent him from suffering great bodily harm and to enable him to enjoy his occupation and his habitation in peace, should not be excluded from voting, if he did not have enough interest in that government to contribute a dollar or a dollar and a half a year to the support of that government. I have never shed any real or crocodile or political tears over the use of a poll tax as a prerequisite for voting.

Mr. HART. The Senator from North Carolina would agree, however—would he not—that if there were examples where, notwithstanding the requirement of the payment of the poll tax as a condition for voting, it was made applicable in effect only to the black citizen, that was wrong?

Mr. ERVIN. I know of no case where that occurred.

Mr. HART. It was with that in mind that I asked the question, because I recall that several years ago, when this was a matter of full debate—

Mr. ERVIN. I believe this is what the Senator from Michigan is referring to. Congress passed a statute that authorized the Attorney General to attack the validity of the poll tax where it was used for discriminatory purposes. I do not know whether that is the statute to which the Senator refers.

Mr. HART. I recall testimony in the hearing record of the virtual acknowledgment by some State authority that carelessness had crept in with respect to the collection of the poll tax, and one was reminded to collect it only when the black citizen arrived, or there was a question as to, "Where is your ticket?" only when that fellow arrived. But, happily—and again I salute the senior Senator from Florida—this problem, real or imagined, is behind us; and I think we are all the better off.

Mr. ERVIN. That is true except in the question of Federal voting. Of course, it was outlawed in a most remarkable decision handed down by a judge of the Federal district court in the State of Texas. The opinion was written by a former Member of Congress, Homer Thornberry, who was appointed Federal district court judge and subsequently a Federal circuit court judge by former President Lyndon B. Johnson, who, like Homer Thornberry, is a Texan.

Judge Thornberry wrote one of the most remarkable judicial opinions in the annals of time, in which he held that the poll tax in Texas was unconstitutional under the due process clause of the 14th amendment because the Supreme Court of the United States had held that a statute of Connecticut which prohibited the use of contraceptives by a husband and wife was unconstitutional, under the same clause of the same amendment.

Since that time, and since the very grotesque opinion of Associate Justice Douglas of the Supreme Court of the United States, in the case of Harper against Virginia State Board of Elections, the poll tax has been outlawed in Federal voting, by the constitutional amendment sponsored by the distinguished Senator from Florida (Mr. HOLLAND), by the decision of Judge Thornberry, and by the decision of Justice Douglas.

Mr. HART. Did Justice Douglas do it singlehandedly, all alone, or was that the decision of the Supreme Court of the United States?

Mr. ERVIN. There were one or two other culprits associated with it.

Mr. HART. More than half?

Mr. ERVIN. Yes, more than half. And they invalidated the Federal poll tax as a prerequisite for voting, on the ground that it was oppressive as applied to poor men. Under that law, poor men were required to pay a dollar and a half per year to the support of the State of Virginia, to be used to assist in the education of their children and the protection of themselves and their habitations from criminals, and for other State services. Justice Douglas said that that was an invidious discrimination against poor men, because poor men are not as able to pay a dollar and a half to the support of the State of Virginia as are affluent men. These are not his words, but he said this, in substance: "But I am not going to extend this very illogical reasoning any further than necessary to outlaw the State poll tax in Virginia as a prerequisite for voting, because it will invalidate every tax levied by every State, because it is more difficult for a poor man to pay any kind of tax."

Mr. HART. On occasions over the years I have wondered as to the wisdom of the actions of the Supreme Court. But, happily, I have not had to bear that cross as frequently as has the Senator from North Carolina. I realize now that he is describing one in a long series of decisions by the Supreme Court which, in his book, are unwise. Happily, only a minority of us yet in this country are moving to do other than give vocal expression to the disagreement.

Mr. ERVIN. I forgot to say that in handing down the decision of the Supreme Court, Justice Douglas disregarded the plain words of the English language employed in four places in the Constitution and threw into the judicial garbage pail two sound previous decisions of the Supreme Court; namely, Breedlove against Suttle, and United States against Butler, in which the Supreme Court had held exactly the opposite of what it held in the Virginia Board of Elections case.

Mr. HART. Perhaps I am anticipating later today in this debate, but I am sure that the Senator from North Carolina is equally outraged over the fact that the Supreme Court did sustain the constitutionality of the U.S. Voting Rights Act.

Mr. ERVIN. I will say, on that, that they engaged in the most unusual exercise of intellectual gymnastics ever performed by any like number of men, anywhere on the face of the earth, anytime in human history. [Laughter.]

Mr. HART. But the Senator does agree that while a majority may not be always right, the majority was right in the case of the 1965 Civil Rights Act?

Mr. ERVIN. I would like to say that the Senator from North Carolina takes encouragement from the fact that it has been judicially held by one of the appellate courts in the West that there is no evidence of lack of testamentary incapacity for a lawyer to disagree with the decisions of the court; and also I take comfort from the fact that my veneration for the Supreme Court is apparently much higher than the veneration of the Justices of the Supreme Court for that institution, because their dissenting opinions show that they disagree on far more decisions of the Supreme Court than the Senator from North Carolina disagrees with.

Mr. HART. If I could just conclude on that, the Senator from North Carolina disagrees more frequently with the Supreme Court in its review of congressional actions since 1957, in the field of Civil rights, than members of the Supreme Court do with themselves.

Mr. ERVIN. That is very doubtful.

Mr. HART. Specifically, the Senator from North Carolina said everything we have done heretofore has been unconstitutional.

Mr. ERVIN. Oh, no. Oh, no. I say that most things the Supreme Court did, prior to the time Chief Justice Warren became Chief Justice, were sound decisions. Very few were erroneous decisions prior to that time. But the Senator from North Carolina frequently finds, when he disagrees with a Supreme Court decision, that he has four out of the nine members of the Supreme Court in complete agreement with him. They say far more violent things about the unwisdom or the unconstitutionality of decisions than the Senator from North Carolina, being a mild-mannered man, has ever thought of saying.

Mr. HART. Let me make my question a lot more explicit.

The first Civil Rights Act that Congress adopted, during the period of Chief Justice Warren's membership on the court, was the 1957 act. Then we passed the 1960 act, the 1964 act, and the 1965 act.

Now the Senator from North Carolina disagrees in each of those debates with our contention that what we were proposing would be constitutional. The Supreme Court, so far as I know, without dissent, sustained our position.

Now my question is: Does the Senator from North Carolina find himself in sharper disagreement with the Supreme Court in arriving at civil rights legislation since 1957 than members of the Court do with themselves?

Mr. ERVIN. Well, I doubt that seriously, in the long run, because of the effect of the Civil Rights Act of 1965. Justice Black wrote two dissenting opinions, in which he pointed out his disagreement with the provisions of the act. The act requires the Southern States in the United States, to leave their homes and come up to Washington and tip their hats to the Attorney General and say, "Mr. Attorney General, please let this law which we passed in the exercise of the legislative powers according to the Constitution become effective."

I might state that I disagree with a number of decisions of the Supreme Court. I think that in the writing of the decisions of the Supreme Court on civil rights they mummicked up the Constitution.

I told a story here the other day about John Watts, a bricklayer, around the year 1900, who was skilled at laying brick but was not so very well versed in theology. John went out to the church one day and was preaching, as he did whenever he could find a vacant church to let him preach. But Jobe Hicks, another resident of the county, came staggering by, after having had a few drinks of Burke County liquor which was alleged to be a potent beverage, and after John Watts had preached, Jobe came staggering up the aisle and dragged him through the door and threw him out.

Jobe was later duly convicted of disturbing a religious worship in violation of the North Carolina statute for that kind of conduct and Judge Robinson, the presiding judge, who apparently had no great confidence in John Watt's theology, was seeking some way to get him off in a merciful manner.

He said, "When are you going to stop this unseemingly conduct on the Sabbath and coming before me so intoxicated as not to realize what you were doing?"

Hicks said, "I had had several drinks of Burke County liquor but did not think I could stand by and see the word of the Lord being mummicked up by John Watts without doing something about it."

That was the reason I opposed the civil rights bill to which the Senator from Michigan referred.

These bills were subject to these vices, although the Supreme Court of the United States held them constitutional. The situation at the time I opposed them was that they were irreconcilable with the plain words of the Constitution. Furthermore, they were irreconcilable with many previous decisions of the Supreme Court of the United States. Furthermore, they ignored the warning of James Madison that where all the powers of government are concentrated in one persons or one government, there is tyranny by whatever name that government may be called. They were concentrating in the central government at Washington, powers reserved to the States by the Constitution, powers which should have been exercised at the local level, or powers which rightly belonged to individuals.

As I say, I never made a statement that any one of these acts or bills, I would say,

as they were called at that time, were unconstitutional, unless I could be able to cite the verse from the Constitution which was in harmony with any statement or decision of the Supreme Court of the United States which supported my position.

I never predicted that any of these provisions would be held unconstitutional except where I had authority either from the Constitution itself or the decision of the Supreme Court itself to sustain my point. It just turned out that I had entirely too much confidence in the judicial stability of the Supreme Court of the United States on a majority of its members.

Mr. HART. I thank the Senator from North Carolina.

Mr. ERVIN. I thank the Senator from Michigan.

Mr. HART. Just on the off chance that anyone will read this Record and might be curious as to what the Supreme Court said, wisely, I think—unwisely, as the Senator from North Carolina would say, let me cite for the record, as I conclude, the cases in which the Supreme Court has sustained the constitutionality of the Voting Rights Act of 1965: *South Carolina v. Katzenbach*, 383 U.S. 301; *Katzenbach v. Morgan*, 301 U.S. 641; and *Allen v. Board of Election*, 339 U.S. 594.

The most recent decision, the Allen decision, would deal with the section 5 requirement that the Senator from North Carolina speaks of, a preclearance petition.

Mr. ERVIN. Mr. President, I should like to refer to the opinions.

Mr. HART. Surely.

Mr. ERVIN. Mr. President, at the time the Supreme Court of the United States handed down the decision in South Carolina against Katzenbach, the Constitution of the United States declared in section 2, article 1, section 1, article 2, the 10th amendment, and the 17th amendment, that the States had a right to prescribe the qualifications for voting, subject to the limitation that they could not prescribe either race or sex as a qualification, or deny equal protection.

They also had a provision that Congress could not pass a bill of attainder—a bill of attainder meaning one that condemns individuals or persons of being guilty of violation of the law without judicial law and punish them on that basis.

All decisions up to that time, such as *ex parte Milligan*, declared in substance that no notion more pernicious in its consequences was ever invented by man than the notion that any provision of the Constitution could be suspended under any circumstances.

In the South Carolina case, the Supreme Court did uphold the 1965 Voting Rights Act. And in so doing, it reached the strange conclusion that Congress had the power to pass a bill of attainder, condemning the States, their election officials, and their people for having violated the 15th amendment. They condemned by a legislative declaration, without a judicial trial, and on that basis suspended the constitutional power of a State to prescribe a literacy test.

It also held that the triggering device

of the bill was perfectly rational in providing that where less than 50 percent of the population of voting age in a State or county failed to vote for a presidential candidate in the election of 1964, it was automatically guilty of violating the 15th amendment.

The decision of the Supreme Court to the contrary notwithstanding, that is a most irrational deduction because a State can admit any person within its borders to the registration booths, but it has no way to compel him to vote. And up to that time, it was always held that where a fact was not controllable by the party against whom the presumption was raised the fact created a presumption that was irrational.

In Katzenbach against Morgan, the Court invalidated a literacy test in New York which required a particular person, as a condition precedent to being able to vote, to be able to read and write in the English language. That policy had been upheld by a unanimous decision of the Supreme Court in decisions such as in Lassiter against the Northampton Board of Elections.

Under the ruling in Katzenbach against Morgan, Congress has the power to deprive all of the States of the power to make, enforce, and interpret laws. I say that because the Court in that opinion said that the section 5 of the 14th amendment empowered Congress to nullify the State voting requirement in perfect harmony with the provisions of the equal-protection clause of the 14th amendment; and not only that but to also substitute in its stead Federal voting requirements, notwithstanding the fact that Congress was forbidden to substitute a voting requirement by four different sections of the Constitution.

It also said that when Congress invalidated the State voting requirement, the Supreme Court of the United States would not even inquire into the question whether the State voting requirement was in harmony with the equal-protection clause and other provisions of the Constitution.

The Supreme Court held that notwithstanding the constitutionality of the State law, Congress could strike down any State law if the Supreme Court could see that it would have a tendency to keep a State from violating the equal protection clause. All the equal protection clause means is that no State shall treat people similarly situated in a different manner.

So, the New York literacy test law was clearly constitutional and had been so adjudged by the New York Court of Appeals and by a three-judge court of appeals sitting in the State of New York. If that opinion be law, then Congress has the power under the section 5 of the 14th amendment to deprive the States of the power to make laws, enforce laws, and to interpret laws. For if States cannot make laws, enforce laws, or interpret laws, they certainly cannot violate the equal protection clause.

I thank the Senator from Michigan for yielding so much time from me and for his very genial manner in so doing.

I have only one regret about the Senator from Michigan, and that is a fact

which I assume to be so—but hope will not be so—that he is not willing to allow the law to provide that the people who will be condemned by the extension of the Voting Rights Act of 1965 will be condemned on the basis of their evil conduct alone in 1968, rather than on the basis of their evil conduct back in 1964.

I want to have that amendment agreed to, because it will say to those who are condemned that they will be unlike Esau. The Bible story was that Esau sought for repentance and found none.

I hope that the Senator will provide a method of repentance for the people who happen to be in a few States of the Union.

Mr. HART. Mr. President, I appreciate the comments made by the Senator from North Carolina, and I will certainly give attention to the amendment when it is offered.

I find in my notes an anticipatory answer, however, to the amendment.

It states on page 18 of the memorandum that it was the opinion of 10 of us on the Judiciary Committee filing the memorandum, that we suggest that the participation level of 1964 was a valid test for determining that practices existed which necessitated the automatic features of the act. It was not intended as a measure of an adequate level of political enfranchisement, but as a reasonable basis for the presumption of the existence of official actions to deny or abridge the right to vote on account of race or color and not necessarily a test by which we would say that the sins from decades of prior practice had been removed.

Mr. ERVIN. That includes my amendment. The Senators are not willing to extend to us any repentance for our former sins, but we will be condemned throughout the unforeseeable future, despite our pleas for repentance and for forgiveness because of the sins we are supposed to have committed in times past.

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

Mr. HART. I yield.

Mr. HOLLAND. Mr. President, first, I want to say that I am not going to join either of my distinguished friends either at the mourner's bench or in argument before the Supreme Court; but since some reference has been made to the history of the poll tax I wish to put in one fact at this time which may be of interest.

The poll tax originated before the Constitution was framed. It existed in New Hampshire—\$1 a year—and was held to be a qualification for voting. However, it had been put in there as the most liberal requirement for voting to be found in any of the original States and it was so regarded. In every other State—and the Senator from Florida had some occasion to research this matter in times past, when the poll tax was active—the requirements to qualify for voting were much more rigid than those in the way of taxpaying requirements or property owning requirements or even other requirements which we would not want to see voiced at this time. It was a liberal requirement at that time. I wanted that

statement to appear in the RECORD at this point.

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

Mr. HART. I yield.

Mr. GURNEY. Mr. President, in looking through the report which accompanied H.R. 4249 in the House of Representatives, I was interested in reading the registration statistics contained therein on page 4. The table there gives the registration statistics of present white registration and nonwhite registration in the spring and summer of 1968 in the States we have been talking about, the seven States of the South, as well as the percentage of nonwhite registration prior to the Voting Rights Act of 1965.

I must say I was taken with the progress that has been made there. I would think this represented a little more than 2 years' work. The act went into effect in August of 1965, as I recall. I suppose it took a while to get teams cranked up to put voters on the books and I suppose that represents a little more than 2 years' work. The progress has been dramatic. Probably these statistics today, 2 years later, would show further progress in nonwhite new registration.

I wish to ask the Senator this question. What would the Senator from Michigan feel would be an adequate registration on the black side in order to remove this symbol of degradation and onus cast on these seven States by the Voting Rights Act of 1965?

Mr. HART. I think it is not so much a question of percentage in the future as it is the passage of some time. The old laws will recur if we abandon the automatic feature of the 1965 act.

As the Senator from Florida says, the increase has been dramatic, and I agree with him; but it has been under the spur of legislation and the absolute suspension of laws which, prior to 1965, produced the dramatic low participation.

I think we are talking about a patient who was in a state of extremes and then was taken to the hospital, and now is doing very well. But it does not follow that because the hospital care has produced improvement you can now throw away the oxygen tent and throw him out on the street again, as the weather on the street is the same as that which caused him to go to the hospital.

I prefer not to talk about percentages but those kinds of facts which I mentioned earlier.

Mr. GURNEY. I still prefer my question, and I think it is a fair question for those on the other side to ask. Where there is dramatic evidence of this sort, is it not fair to ask at what point the Senator thinks he will be satisfied with evidence of new registration? We think it is a fair question. Obviously, the Senator is not impressed by this progress.

Mr. HART. I am convinced by it. I do not want to get rid of supervision. Five years ago we suggested 10 years was an appropriate period. That was the recommendation of the Civil Rights Commission. Given the existence of the need to obtain a majority here, but sometimes two-thirds of those present and voting being required, it was trimmed back to 5 years.

We are running out of time in that 5-year period. We are delighted to see the progress but, I say, the patient should be protected for a brief additional period. We are suggesting another 5 years; resuming the position we took 5 years ago.

Mr. GURNEY. I did not expect the Senator from Michigan would actually answer the question in a factual fashion although I do make this observation. Even though his point might be valid that further time might be needed—I do not admit it does, but let us say that is a valid point—it does not appear to me—and, of course, I am not representing one of these States involved but I am next to some of them—it does not seem to me to be a very fair attitude, with this very dramatic progress, to reenact the Voting Rights Act, which is prejudicial and leveled against a very small section of the country for another 5 years. It seems to me that in fair play it might be well to try for a year or 2 years across the country.

I think in all the fuss and fight in the civil rights field we have made enough progress that all of us had better stop pointing a finger at the other fellow and holding that he is all wrong and that we are right. That is the point I make because this sort of legislation, tackled the way it is tackled, is no healing device for anyone in the country and I think it is the wrong approach.

Even though the point the Senator from Michigan makes may be valid, I do not think the idea of a meat ax approach for another 5 years, in just the same fashion, treating the people just the same as they were treated 5 years ago, in the face of amazing progress, is a very fair way to legislate.

Mr. HART. I did cite some instances which have occurred in some of those States in the 5 years immediately past to suggest that while there has been this very substantial progress, there have been incidents documented of efforts to develop new stratagems, new practices, even where the tests had been automatically suspended. So I think there is a basis for suggesting, as we do, a further extension of the tests. Again, it is a question of when the patient is wholly well. One national election has intervened. The progress is good.

Mr. GURNEY. I would simply make this further observation. Admitted, there probably are people who are trying to dodge, who still adhere to the old ways. I think probably this is a part of human nature. It is hard, sometimes, to revise character overnight.

As I see what is going on in our part of the country—and certainly the part of the State of Florida in which I live is just as much in the Deep South, if I may refer to it in that term, as Alabama and Georgia—in all those areas, as we saw in the school debate we had 2 weeks ago, there is a completely changed feeling. In that part of the country there is good feeling both with regard to school enrollment and voting rights.

The point I make is that I wish people from the Northern States, who are not intimately acquainted with our problems in our part of the country, would take as truth some of the remarks some of us are

making—that there is a change of attitude.

We would hope that this change of attitude might be recognized in some of the pieces of legislation like this one coming before the Senate, rather than, 5 years later, being treated just exactly like the same culprit we were made out to be 5 years ago. This does not make sense at all, and I do not think it furthers good relations in the country, or makes any contribution in the field of voting rights. That is the only point I make.

Mr. HART. I understand the position, and we are not now in the same position we were 5 years ago, able to cite a century long list of rather dramatic reasons for suspension. But there have been many examples. The Senator has said that perhaps it is only a few of them who were reluctant to abandon old tendencies. But so long as they are there, I think it is unfair to suggest the desirability of removing the suspensions.

I do acknowledge the marked increase in participation, and I am sure that just those raw figures themselves account in part for some of the change in attitude. They represent voters now, not just theoretical voters, but actual participants at the ballot box, and that has brought about a change in attitude of citizens, North and South alike.

Mr. ERVIN. Mr. President, will the Senator yield to me so I may give him an assurance that ought to encourage him and also to tell him how the law has operated in four of the 39 counties of my State, in the hope that my recitation of these things may soften his heart a little bit—

Mr. HART. I am disappointed in the Senator's suggestion of the condition of my heart.

Mr. ERVIN. No; I am trying to get the Senator's conscience and heart to operate in concert with each other. Let me point out that no Federal registrars have been appointed in North Carolina.

Mr. HART. That I do know.

Mr. ERVIN. Everybody who has been registered in North Carolina has been registered by what some people choose to think of as sinful southerners.

Further, may I say to the Senator from Michigan, I live in North Carolina and I do not know of a single person who has been denied the right to register and vote in North Carolina on account of his race in the last 30 years. I heard some charges made that some were denied that right in three precincts back in 1956, but when I investigated those charges, I found that the State board of elections had corrected the matter by administrative process and everyone concerned had been allowed to register in time to vote in the May 1956 primary.

Here is the way it is operating in Onslow County, in Cumberland County, in Wake County, and in Guilford County.

Onslow County is the site of Camp Lejeune, the greatest Marine base, I believe, on the face of the earth. When the Census Bureau questioned the people in Onslow County to determine whether 50 percent of the people in Onslow County had voted in 1964, they counted all of the marines who were stationed there and all the wives of the married marines

stationed there. Only by doing so were they able to show that less than 50 percent of the people of Onslow County voted in the 1964 election, as required. Most of those marines and their wives were not residents of North Carolina and could not have voted in North Carolina under the law of North Carolina constitutionally applicable to them.

Cumberland County is the site of Fort Bragg, which I understand is the greatest military installation, in numbers of persons, anywhere in the United States. It is a county where they have had blacks in some areas as registrars and assistant registrars for years. Cumberland County was denied the right to exercise constitutional powers belonging to it as a subdivision of North Carolina because the nonresident soldiers and their families there were counted to determine whether 50 percent of the population of Cumberland County had voted in the 1964 presidential election.

One of the most remarkable applications of this act was to Guilford County, N.C., which is the site of the University of North Carolina, which is the site of one of the great North Carolina land-grant colleges, North Carolina Agricultural and Technical University, which is the site of one of the famous colleges maintained by the Quakers, Guilford College, which is the site of a black institution, Bennett College, which is the site of a fine Methodist institution, Greensboro College.

This county would be, in the opinion of the Senator from Michigan, one of the most liberal-minded counties in the United States of America.

They counted all of these college students—thousands of them—in order to determine whether 50 percent of the citizens in that county who were of voting age had voted in the 1964 presidential election. By reason of counting the college students, they fell a little short of that, and they have since been denied, and would be denied under the pending proposal, for 5 years more, the right to exercise the constitutional powers given to them by the Constitution of the United States in four sections, and on the assumed basis, under the triggering device, that they discriminated against blacks in registration and voting.

This county, in the last Legislature of North Carolina, was represented by a black man who introduced a resolution to abolish the literacy test. When this black man from Guilford County introduced the proposal to abolish the literacy test in the legislature, the Legislature of North Carolina, which consisted of 50 senators, all of the other 49 being white, and 119 other representatives, all of whom were white, adopted the resolution, and it is to be voted on at the next general election this fall.

Although the Senator from North Carolina thinks that people ought to be able to read and write in order to vote, in order to have an enlightened electorate, he is tempted to vote for the repeal to keep North Carolina from being included among the culprits simply because it has a literacy test.

But the most striking illustration of this was in Wake County, N.C., the seat of the North Carolina State government, and also the seat of many institutions of higher learning, and also the seat of one of the great hospitals for the mentally ill, and also the site of Central State Prison, where persons convicted of felonies are confined.

When the Census Bureau started counting up the people of Wake County, it found it not only had to count the students in educational institutions who resided in other parts of the State and other States, but it also had to count all of the unfortunate people who were confined in the hospital for the mentally ill on account of their mental illness, and also all the felons confined in the State prison, in order to determine whether 50 percent of the people of Wake County had participated in the presidential election of 1964.

By counting the mentally ill persons, most of whom were not residents of Wake County, and who were disqualified to vote under North Carolina law, and by counting the felons confined in the State's prison, most of whom did not live in Wake County, and who could not have voted anywhere in North Carolina because of their convictions for felonies, they managed to bring Wake County within the coverage of this triggering device.

That was too much for even the hard-hearted Department of Justice, and that hard-hearted Department decided that it would release Wake County from the coverage of the act by a consent judgment, up here in the district court. But in order to get that consent judgment, Wake County had to come up to Washington, D.C. It had to come up to Washington, D.C., because under this Voting Rights Act of 1965, all of the Federal judges residing in North Carolina are deemed unfit to exercise their judicial powers in a case where a county in North Carolina which is condemned by this act seeks to be exonerated from its very illogical conviction.

Mr. HART. The Senator from Michigan remembers very clearly the sharp criticism of the Senator from North Carolina 5 years ago on this particular aspect of the 1965 act.

Mr. ERVIN. I am sorry it did not penetrate the consciences of a majority of the U.S. Senate, since if it had, this calumny on North Carolina Federal judges would never have been perpetrated.

Mr. GURNEY. Mr. President, will the Senator yield briefly for an observation?

Mr. ERVIN. I yield.

Mr. GURNEY. In view of the recitation of the able Senator from North Carolina of some of the voting rights statistics, my observation is that though there were sins on both sides, the most recent sins appear to have been committed by the proponents of this voting rights legislation, instead of the opponents.

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

Mr. HART. I yield.

Mr. HOLLAND. First, I ask unanimous

consent that the compilation of States at the top of page 4 in the House of Representatives committee report be printed in the RECORD at this point, because I wish to refer to it.

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

	Voter registration in the South, spring-summer, 1968		Percent nonwhite registration prior to Voting Rights Act of 1965
	Percent, white registration	Percent, nonwhite registration	
Alabama.....	82.5	56.7	19.3
Georgia.....	84.7	56.1	27.4
Louisiana.....	87.9	59.3	31.6
Mississippi.....	92.4	59.4	6.7
North Carolina.....	78.7	55.3	46.8
South Carolina.....	65.6	50.8	37.3
Virginia.....	67.0	58.4	38.3

Source: Voter education project, voter registration in the South, summer 1968, U.S. Commission on Civil Rights, report entitled "Political Participation" (1968) at pp. 12-13.

Mr. HOLLAND. This compilation covers the seven Southern States. Two of those States did not have supervisors appointed, and did not have Federal officials go into them to seek to improve the figures of voting registration. Those two States were North Carolina and Virginia. I am sure the Senator knows this to be the case.

The reason I refer to the compilation is this: Those two States, as well as the other five, show a material increase in the registration of nonwhite citizens. In North Carolina, the registration went up from 46.8 percent of the nonwhite citizens to 55.3 percent of the nonwhite citizens. In Virginia, it went up from 38.3 percent to 58.4 percent, or an increase of a little more than 20 percent. There were no voting registrars appointed in either of those States.

The reason I bring out this fact is that we had a similar increase in the registration of Negro citizens to vote in the State which I represent in part, the State of Florida. In spite of the fact that the poll tax requirement had been canceled in our State as a requisite for voting in 1937, the inertia which prevailed among the colored citizens when it came to registering to vote proved to be very great; and while we had about 300,000 who had registered prior to the time of passage of the Voting Rights Act of 1965, we have had a substantial addition to that number since that time, due not at all to the appointing of any supervisors of registration or any other Federal employees to come down there, but due to the fact, first, that there were civilian groups who were active in trying to get more of them to register, and second to the fact that time had passed since 1937, and with every additional year or 2 years, because our elections are customarily held every 2 years, we were finding an increase in voting registrations.

There was no ban, there was no discouragement, and there was no interference with the voting rights of the Negroes in our State. Even in the debate at the time of the passage of the Voting Rights Act of 1965 on this Senate floor, it was stated freely by the proponents of that bill that the bill should

not apply to the State of Florida, and it was not designed to apply to our State.

But nevertheless there has been—and that is my point—a material increase of will to participate. There has been a material increase of education. There has been a material increase in efforts by various groups to get the minority residents of voting age to register.

The point I am bringing out here is that in Virginia, the increase in registration was even greater than it was in some of the States where an army of Federal voting supervisors went in. In that State, the increase of Negro participants was from 38.3 percent to 58.4 percent participation in registration. I do not mean in voting, because I have no information on that.

The point I am making, therefore, is that there is abundant evidence in this list itself of the fact that the effort to get the Negro citizen to register for voting greatly enlarged and was greatly more successful, as shown by the figures, in North Carolina and Virginia, where there were no supervisors appointed; and in the State of Florida, though their figures are not here, I have stated very freely for the RECORD that the number of Negro registrants has increased. I cannot give the exact figures. I did give, in the debate of 1965, the exact figures on registrants then. My recollection is that it was about 300,000. Perhaps my able and distinguished colleague who has participated in an election at a later date than I have, can give a later figure on the Negro registrants in Florida. I am unable to do so, but I do know that even in my own county, which has never had any objection to the registration of Negroes, at least not for many, many years—certainly not since 1937, when the poll tax requirement was knocked out—there was a substantial increase in the number of Negro registrants.

I suspect that the same was true in Orange County, where my distinguished colleague lives. I know that it was true in the State at large, because I saw the figures quoted repeatedly in the press.

There has been this urge for greater participation, and if that is in part due to the passage of this act, that has been at least one good result. I hesitate to admit that there has been any good result from the passage of the act, because I think an act which requires a State or a county within a State to come up here and submit to the jurisdiction of the courts in the District of Columbia to get corrected what has been a patent error, as in the cases listed by our distinguished colleague from North Carolina, is just as wrong as it can be. I think it is an unnecessary insult to the United States district judges who sit down there, and to the people of the several States.

I think that it is time—and my own feeling is it is long past time—when we all know that the public consciousness and the public conscience in this field have been greatly aroused, and when every effort is being made to get all citizens to register. Some of them never will register, and we do not know what that number may be. But the fact is that we know that that feeling now persists.

I see no justification at all for the continuance of this law for an additional 5

years. It seems to me that it is an added insult to the Southern States. It does not happen to apply to my own State, but I do not like to see it apply to our two neighboring States of Georgia and Alabama or to any other of the Southern States and not apply to all States. So far as the Senator from Florida is concerned, he would rather have it apply to his State along with the others and to all the States in the Union than to have it apply only to 5 or 6 selected Southern States where the improvement in participation in registration—and I suspect also in exercising the voting right—has been so great in these last years.

In some instances supervisors have been named, and in other instances no supervisor has come, none has been ordered, and yet immense improvement in participation has occurred, as in Virginia, where, I repeat, the registration of Negro voters has gone up from 38.3 percent prior to 1965 to 58.4 percent in 1968.

I think that is a fact that the Senator from Michigan could well consider and that I hope will impel him to the conclusion that this act ought to be either canceled—and that is what I would prefer—or made to apply to all States throughout the Nation. After all, we are part of this Nation. Those of us who are here from the Southern States have fought for our country. There is hardly an exception in the rule here. Our sons have fought for our country. In some instances even our grandsons have fought for our country. We think we are just as good Americans as there are anywhere, and we do not like to be singled out for this kind of treatment.

At a time when we are talking about discrimination, I hope that my distinguished friend will realize what kind of discrimination he is suggesting by the effort to continue this law for an additional 5 years.

I thank the Senator for yielding.

Mr. HART. I understand the reasons that cause the senior Senator from Florida to speak as he does and to reach the conclusion he draws. I, perhaps operating from a different set of premises, find myself not in agreement.

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

Mr. HART. I yield.

Mr. GURNEY. My able senior colleague from Florida raised the question of whether I had later registration statistics on our Negro voters. I do not have those in mind.

I will say, however, that my senior colleague is correct when he says there has been an increase in Negro voter registration in Florida in recent years.

As a matter of fact, in that connection, it is very interesting to note that the most dramatic increase in black voter registration in Florida in recent years occurred in the election of 1964, 1 year prior to the voting rights bill. I recall that very dramatically, because in my home county of Orange, about 10,000 new Negro voters went on the rolls, almost all Democrat, and I had won the previous election by only 3,000 votes. So it concerned me greatly, and I recall the figure quite dramatically.

But we have not had any problem that

I can recall in putting Negro registrants on the books, and we have had a constant increase in recent times, and even before the 1965 act.

Mr. HART. Mr. President, I appreciate the willingness of my friends to engage in this give and take. We do see the responsibility of the Senate with respect to the extension of the 1965 act and its essential features in different light. I am glad that the senior Senator from Florida placed in the RECORD the figures he did, which do indeed show a very substantial increase in the nonwhite voting registration in the several States, two of which, as the Senator from Florida accurately reported, never were the object of examiners.

However, the question here is that of the chicken and the egg. I think a little of the persuasion of the 1965 act is reflected at least in some of those improved figures.

Again, I have cited specific examples of intervening action by public authority which would have been effective had it not been for the 1965 act and which could undo some of the progress. It is progress that was made possible at least in part by the 1965 act.

Our position is as our substitute indicates: a belief that the improvement is to be encouraged, the progress acknowledged, and the safeguards maintained.

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

Mr. HART. I yield.

Mr. ELLENDER. I read from the second paragraph of the report:

The purpose of H.R. 4249 is to continue in full force and effect all the provisions of the Voting Rights Act of 1965 for an additional five years.

As I understand, the only change made, in effect, is that the act will apply to all States. Is my understanding correct?

Mr. HART. The 1965 act—let us be honest about it—applies to all States equally. If Michigan had happened to have had an inadequate percentage of registration of nonwhites, it would have applied.

Mr. ELLENDER. Does the Senator mean under that formula?

Mr. HART. Indeed. It applied, without naming any States, to any State that met the formula.

In addition, the authority is granted in the 1965 act, and extended in the substitute, for courts to impose the same restraints on any State notwithstanding its failure to fall under the triggering formula, if in fact there is proof of practice which constitutes discrimination which inhibits the realization of the 14th and 15th amendment promises.

Mr. ELLENDER. By extending the act for 5 years, what makes the Senator believe that the same effort will not be made to continue the program as in the past?

Mr. HART. Is the point of the Senator's question that if we continue it for another 5 years, will be back here in 1975 asking for still another 5 years? Is that the question?

Mr. ELLENDER. I just cannot understand the position.

Mr. HART. Very briefly, the act of 1965 sought to correct a problem that

was, I think, grievous, which was the cumulative result of decades of unequal treatment. I think we would all agree that there have been instances where the judgment as to the eligibility of a person to vote was made when he was 50 feet away—if it was daylight. The cumulative effect of those habits caused us in 1965 to say, "We are going to suspend some of those tests. If need be, we are going to put registrars in there to get people on the rolls, and to see to it that they are counted when they are on the rolls." That has produced some substantial improvement in participation, as is reflected in one national election.

But, as I said before the Senator from Louisiana arrived—well, I will not use the same example. I had suggested that the patient was in a hospital. He had had one crisis. He is now breathing easily, but the oxygen machine should not be taken away.

I could put it in another way: If a parent begins to crack down on having his child straighten his room before he leaves in the morning or making certain that his shirt is clean each day, while there is such a parental drive on, the child will act properly. His room is clean, his laundry is in order, and he wears a clean shirt.

But it does not follow that if the parent stops that supervision for a week, the child's basic habits will have been adequately adjusted to insure a straightened room and a clean shirt. That is the reason that persuades us to suggest an extension for another 5 years.

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

Mr. HART. I yield.

Mr. ERVIN. I suggest that the Senator's simile is somewhat wrong. I think that the doctor, instead of trying to cure the patient, is strangling him. Instead of taking the oxygen tank away, I think the doctor has kind of hit him in the head so that he cannot recover on his own.

This law was recommended in 1965 by a President who came from Texas and was drawn under the auspices of an Attorney General who came from Texas. They were careful to get advice which would condemn South Carolina, Georgia, Alabama, Mississippi, Louisiana, and parts of North Carolina and Virginia, which had voting tests. They were doing that, I charge, because they thought it would be politically appropriate for them. They were not trying to select the States having the lowest voting record, because the State which had the lowest record, according to my recollection of the 1965 hearings, was Texas, which had no literacy test, and Texas was where the Attorney General and President lived.

If they had been interested in getting people to vote in States where the voting records were low, they would have taken Texas, a State whose record was far inferior to that of North Carolina, which was condemned. Out of the 240 counties in Texas, they would have condemned about 125 or 150, where the voting records were far lower than in the 39 North Carolina counties that were condemned by the act. This was discriminatory—I am not charging this to the Senator from Michigan but am charging it to the 1965

Civil Rights Act—which was considered in discrimination against seven States and was brought forth in discrimination against seven States because it would deprive them of the rights which would be allowed to the other 43 States to exercise their constitutional powers.

I thank the distinguished Senator from Michigan. I should like to say that anything I may have said during my colloquy with him is not to be interpreted to mean that I do not have a very deep affection for the Senator from Michigan and a very high admiration of him.

My only regret is that the distinguished Senator from Michigan does not share my sound views on this question. [Laughter].

Mr. HART. I am very grateful to the Senator from North Carolina and I am also grateful to others who have participated in this colloquy.

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

THE PRESIDING OFFICER. (Mr. GURNEY in the chair). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. 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 Senator from North Carolina is recognized.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

ORDER FOR ROUTINE MORNING BUSINESS TOMORROW AND THE FURTHER CONSIDERATION OF UNFINISHED BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on tomorrow, following the speech by the able Senator from Arkansas (Mr. McCLELLAN), there be a period for the transaction of routine morning business, that Senators be permitted during that period for the transaction of routine morning business to make speeches, that those speeches be not to exceed 3 minutes, and that at the conclusion of the morning business on tomorrow, the Chair lay before the Senate the unfinished business.

THE PRESIDING OFFICER. (Mr. DOLE in the chair). Is there objection? The Chair hears none, and it is so ordered.

VOTING RIGHTS ACT AMENDMENTS OF 1969

The Senate continued with the consideration of the bill (House Resolution 4249) to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices.

Mr. ERVIN. Mr. President, the Scott substitute for the administration bill reminds me of the man who was absent from home and received a telegram from his family's undertaker.

The telegram stated:

Your mother-in-law died today. Shall we cremate or bury her?

The man sent the following reply to the undertaker:

Take no chances. Cremate and bury.

That is precisely what the Scott substitute proposes to do in five Southern States and to parts of two other Southern States. It does this by a triggering device which will make certain that the other 43 States of the Union will be permitted to remain full-fledged States of the Union and be permitted to exercise all of their constitutional rights and that the Southern States affected shall be reduced to the status of conquered provinces.

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

Mr. ERVIN. I yield.

Mr. TALMADGE. Mr. President, if an act of Congress is beneficial for any State or any group of States or any region of the country, should it not be equally beneficial for all?

Mr. ERVIN. That would be my view, if the country is going to be regarded as a unified country, containing States of equal dignity and power.

This is a proposal, however, to reduce seven States to a position of inferiority in the sisterhood of States. And in view of the fact that the administration bill would deprive the same States and parts of States of the power to use a literacy test, I do not see why anyone wants to pass the Scott substitute unless he feels in his heart that it would be politically advisable to insult the seven Southern States.

Mr. President, that great political thinker and leader during the founding of our Republic, James Madison, authored words which bear directly upon the legislation now before the Senate. He wrote:

The right of suffrage is certainly one of the fundamental articles of republican government, and ought not to be left to be regulated by the (national) legislature.

Madison's wise caution against granting Congress power over the franchise was incorporated in the Federal Constitution. And I might state at this point, Mr. President, that the Constitution of the United States now enjoys almost the same low repute in the Nation as do the seven Southern States against which the Scott substitute is pointed.

For nearly 200 years the Supreme Court and the Congress agreed with the wisdom of the Constitution and abided by the plain language which gave the States power to establish voter qualifications. The fact that the Supreme Court and the Congress have suddenly turned their backs on two centuries of American constitutional history has given me great concern.

It is within the context of this constitutional history that I want to offer my thoughts concerning the 1965 Voting Rights Act and various proposed amendments to it.

Before the Senate for consideration are the administration's proposal—incorporated in H.R. 4249—which would improve in several ways the Voting Rights Act of 1965, the proposal to extend the act for 5 years in its present form, and the so-called Hart-Scott com-

promise, which extends all the iniquities of the 1965 act for 5 years and adds to it the most clearly unconstitutional features of the administration's bill. In addition, I have introduced several amendments to the 1965 act which I shall call up if the Senate should be so unwise as to move toward extension of the act.

THE MARCH 1 DEADLINE

The March 1, 1970, deadline imposed by supporters of an extension of the 1965 act on committee consideration of these proposals has made it impossible for the Judiciary Committee to deliberate and discuss the important constitutional and practical issues involved with this type of legislation. The time limit serves the interests of those who want no real discussion of the issues, who have already made up their minds, and who have decided to ignore completely viewpoints different from their own. As a result the bill will have to be written on the Senate floor instead of in committee. The time "saved" by the gag rule will be more than lost because of the extended debate that now must be conducted on the Senate floor.

Those who imposed the December gag rule said it was necessary in order to avoid delay and obstructionism. I respectfully submit that there is nothing in the past record of the Subcommittee on Constitutional Rights, to which the bill was referred, which could possibly suggest delay or obstruction, either as to this legislation or any other so-called civil rights legislation. The fact is that as chairman of this subcommittee I have always guaranteed due process, equal rights, and fairness for all—even to those who profess to believe in these rights, but who choose to ignore them to a small minority on the committee.

In order to set the record straight, I think it would be well to review the chronology of subcommittee action on the particular proposals now before the Senate.

S. 2456, a bill extending the act 5 years, was introduced on June 19, 1969, by Senator HART on behalf of a number of other Senators. On June 30, 1969, the administration bill, S. 2507, was introduced. The next day I announced subcommittee hearings, to begin 8 days later. These hearings were held as scheduled and all who asked to testify were allowed to do so. The hearings were then recessed to await action by the House as is common practice with respect to civil rights bills.

In the period before the House acted I received no request, either formal or informal, written or oral, for the subcommittee to act on the bills. Not even one representative of that highly astute legislative team of civil rights lobbyists suggested that the subcommittee consider the bill before the House acted.

Having passed the House on December 8, H.R. 4249 was referred to committee on December 16. Hearings were called on December 19 to begin on January 27, 1970, right after the start of the new session. The record since then is as follows:

The hearings of January 27 were canceled because of hearings by the full

committee on the nomination of Judge Carswell.

Hearings were scheduled for January 28. They were canceled because of hearings by the full committee on the nomination of Judge Carswell.

Hearings were scheduled for January 29. They were canceled because of hearings by the full committee on the nomination of Judge Carswell.

Hearings were scheduled for February 3. They were canceled because of hearings by the full committee on the nomination of Judge Carswell.

Hearings were scheduled for February 4. They were canceled because of a Rules Committee meeting on appropriations for 1970 work of subcommittees.

Hearings were scheduled for February 5. They were canceled because of an executive meeting of the committee on the nomination of Judge Carswell.

Hearings were scheduled for February 17. They were canceled because of an announced executive meeting of the full committee, which was itself later canceled.

Finally on February 18, 1970, with only 8 legislative days remaining until the March 1 deadline, the subcommittee was able to begin its hearings.

We held hearings on that day, and on February 19, 24, 25, and 26. All in all, we heard from 15 witnesses, and no doubt would have heard from many more had we been given the time to act properly on this bill.

Mr. President, I believe that an examination of the witness list for these hearings will show without doubt that all viewpoints were represented. Our witnesses included the Governor of one State affected by the 1965 act, the attorney general of another State affected by the act, representatives of the Leadership Conference on Civil Rights, the Southern Regional Council, the U.S. Commission on Civil Rights, and the Justice Department. We also heard from representatives of private groups interested in the legislation. Within the limits granted us by the deadline, all who asked to testify were accorded an opportunity to do so.

When the hearings were completed, one legislative day remained for us to act, and for the full committee thence to act, before the deadline.

Immediately following the close of our hearings we attempted to convene an executive meeting. Because of the necessarily short notice we had to give the subcommittee members, they did not have time to readjust their schedules. Quite naturally and expectedly, it proved impossible to obtain a quorum though we tried all day. While we had barely sufficient time to hear all witnesses who requested to testify, there was clearly no time left for Senators to discuss the proposals in subcommittee and committee.

Despite the history of fairness by the subcommittee on all legislation committed to it for consideration, the Senate saw fit to impose a gag rule on its operations. Therefore, I must now take advantage of the freedom of speech guaranteed to Senators on the Senate floor to present more fully my objections to the proposals now before the Senate.

OBJECTIONS TO 1965 ACT

When the Voting Rights Act was first proposed in Congress, I stated my belief that all qualified citizens of all races should have the right to register and vote. I also said that any person who attempts to deny or abridge another's right to vote on account of race should be prosecuted to the full extent of the law. I have continually urged the Department of Justice to enforce vigorously the laws already on the books respecting voting rights. If they had done so before 1965, or if they did so now, there would be no call for additional legislation.

During the years I have been in the Senate I have had cause to interrogate four U.S. Attorneys General with respect to what courses of action they have taken under acts of Congress passed about 100 years ago making it a crime for any State official to deny to any qualified citizen on account of his race his right to register and vote. Four Attorneys General preceding the present incumbent of that office have testified in my presence that they have never made any real effort to have any State official prosecuted under these 100-year-old statutes for denying any qualified voter his right to vote on the basis of his race. On one occasion when the Attorney General appeared before the Committee on the Judiciary and asked for increased powers in the voting rights field, he was interrogated by me with respect to what he had done with the laws on the books. He said he had not used them; he just wanted some more laws.

I told him he reminded me of a story they tell down in my country about John and Mary who were courting each other, in the common parlance of North Carolina. One night they were sitting on a bench together in the moonlight with the fragrance of roses filling the air, and when all the attending circumstances were such as to inspire romantic feelings, John said to Mary, "Mary, if you wasn't what you is, what would you like to be?" Mary said, "John, if I wasn't what I is, I would like to be an American Beauty rose." Then Mary turned the question on John and said, "John, if you wasn't what you is, what would you like to be?" And John said, "Mary, if I wasn't what I is, I would like to be an octopus." Mary said, "What is an octopus?" John said, "An octopus is some kind of a fish or something that has a thousand arms." And Mary said, "John, if you was an octopus and had a thousand arms, what would you do with all those arms?" John said, "Mary, I would put every one around you." Mary said, "Go away, John. You ain't used the two you already got."

So we have all these attorneys in the Justice Department. They will not use all the laws they already have, and they come down here asking for more laws and more laws, until the books are cluttered with laws on voting rights.

So here we have a proposal in one of the bills—namely, the Scott substitute—that seven States of the South, whose principal offense is that they lie south of the Mason-Dixon line and are politically helpless, be denied their right to use lit-

eracy tests by two separate provisions, both operating at the same time.

Frankly, it sort of hurts my feelings to have proposals made in the U.S. Senate in a single bill which indicate that in the minds of the sponsors of that bill some of my constituents are so bad that they have to have two separate laws in the same bill to keep them from doing the selfsame act.

I have expressed my support for any Federal legislation designed to protect voting rights which is constitutionally sound and which is applied uniformly to all the States. I reaffirm those statements now. All my life I have sought to insure that every qualified citizen is permitted to register, granted the right to vote, and encouraged to vote. That is the essence of democracy, and the only true guarantee that constitutional government will survive in this country.

However, constitutional government cannot survive if, in the guise of protecting the right to vote, we run roughshod over the Constitution. I believed in 1965 that the Voting Rights Act was an unconstitutional method by which to accomplish a worthy end—the protection of every citizen's right to vote. I believed the Voting Rights Act was also regional and vindictive legislation. It stands condemned on these grounds as an affront to the Constitution, and to the reputation of the body which enacted it.

For these reason, I opposed the Voting Rights Act in 1965. For these same reasons I oppose the extension of the act for another 5 years.

This iniquitous law—doubly iniquitous because it seeks good in an evil manner—should be allowed to expire quietly.

STATE AUTHORITY TO SET VOTING QUALIFICATIONS

I have searched in vain for the constitutional justification for the 1965 act. Any person who can read and understand the English language can see that the Federal Constitution grants to the States the power to prescribe voter qualifications. Section 2 of article I, section 1 of article II, the 10th amendment and the 17th amendment clearly set forth this power of the States. Until very recently neither the Congress nor the Federal courts has had difficulty understanding this plain language in the Constitution.

For the benefit of the Senate, I read these excerpts from the Constitution.

Article I, section 2, reads as follows:

The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

Article II, section 1, reads:

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

The 17th amendment reads:

The electors in each State (for the election of Senators) shall have the qualifications

requisite for electors of the most numerous branch of the State legislature.

The 10th amendment reads:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

This power of the State to set voting qualifications is subject only to the limitations of the two amendments, respecting abridgment based on race or sex, and of the 14th amendment, respecting denial of equal application of the laws. Subject only to prohibiting legislation to enforce these three limitations, Congress has no authority over voting.

Whenever Congress has wanted to affect voter qualifications, it has used the process of constitutional amendment. The 19th amendment granting women the right to vote is an example. Even now, those who support lowering the voting age to 18 so far appear to be honoring constitutional principles in proposing that this change be brought about by constitutional amendment.

The Supreme Court in the 1959 decision of *Lassiter v. Northampton*, 360 U.S. 45 (1959), upholding the constitutional validity of North Carolina's literacy test, recognized the power of the States over voter qualifications. Some of the language of that opinion makes direct reference to several of the proposals before the Senate. I quote from pages 50 through 52 of the case:

The States have long been held to have broad powers to determine the conditions under which the right of suffrage may be exercised. *Pope v. Williams*, 193 U.S. 621, 633; *Mason v. Missouri*, 179 U.S. 328, 335, absent of course the discrimination which the Constitution condemns. Article I, section 2 of the Constitution in its provision for the election of Members of the House of Representatives and the 17th amendment in its provision for the election of Senators provide that officials will be chosen "by the People." Each provision goes on to state that "the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature." So while the right of suffrage is established and guaranteed by the Constitution—*Ex parte Yarbrough*, 110 U.S. 651, 663-665; *Smith v. Allwright*, 321 U.S. 649, 661-662—it is subject to the imposition of State standards which are not discriminatory and which do not contravene any restriction that Congress acting pursuant to its constitutional powers, has imposed. See *United States v. Classic*, 313 U.S. 299, 315. While section 2 of the 14th amendment, which provides for apportionment of Representatives among the States according to their respective numbers counting the whole number of persons in each State—except Indians not taxed—speaks of "the right to vote," the right protected "refers to the right to vote as established by the laws and constitution of the State." *McPherson v. Blacker*, 146 U.S. 1, 39.

We do not suggest that any standards which a State desires to adopt may be required of voters. But there is wide scope for exercise of its jurisdiction. Residence requirements, age, previous criminal record—*Davis v. Beason*, 133 U.S. 333, 345-347—are obvious examples indicating factors which a State may take into consideration in determining the qualifications of voters. The ability to read and write likewise has some relation to standards designed to promote intelligent use of the ballot. Literacy and illiteracy are neutral on race, creed,

color, and sex, as reports around the world show.

Thus, Mr. President, until recently both the Congress and the Supreme Court have respected the plain language of the Constitution which grants to the States the power to set voter qualifications.

THE DANGEROUS CONSTITUTIONAL DOCTRINE OF SOUTH CAROLINA AGAINST KATZENBACH AND KATZENBACH AGAINST MORGAN

Several recent Supreme Court decisions upholding the constitutional validity of the 1965 Voting Rights Act have radically departed from the clear meaning of this plain language. These are *South Carolina v. Katzenbach*, 385 U.S. 301 (1966); *Katzenbach v. Morgan*, 385 U.S. 641 (1966); and *Gaston County v. United States*, 395 U.S. 285 (1969). I respectfully submit that the constitutional theory set forth in these decisions as a justification for the Voting Rights Act of 1965 is a strange and dangerous view of the Federal Constitution.

The constitutional power of the States to establish voter qualifications, including literacy tests and residency requirements, is of course subject to the limitation, prescribed in the 15th amendment, that no State may deny or abridge the right of a citizen to vote on account of race, color, or previous condition of servitude. Section 2 of the 15th amendment gives to Congress the power to enforce this prohibition by "appropriate legislation."

Supporters of the 1965 act have relied on section 2 of the 15th amendment as the constitutional basis for the act. The Supreme Court in *South Carolina v. Katzenbach*, 383 U.S. 307 (1966) supported this view, holding that all the provisions of the 1965 act there brought in issue represented a proper exercise of Congress' authority under section 2 of the 15th amendment. Notwithstanding that decision, I believe that what the Court described as "an inventive manner" of exercising congressional power under the 15th amendment actually constituted a serious rejection of the constitutional primacy of the States over voter qualifications and an assault on several other fundamental constitutional principles.

Section 2 of the 15th amendment has been, until very recently, generally regarded as a "negative" grant of power to the Congress. Under this interpretation, the States retain their exclusive power to prescribe voter qualifications unless such power is used to deny or abridge the right to vote on account of race. This interpretation respects the vitality of section 2 of article I, section 1 of article II, the 10th amendment and the 17th amendment. The Supreme Court itself in *Lassiter v. Northampton County Board of Elections* (360 U.S. 45 (1959)), continued its long tradition of interpreting section 2 of the 15th amendment as granting to Congress an essential "negative" power.

This is the traditional and logical interpretation of the 15th amendment. Moreover, this interpretation preserves the dignity and the meaning of the other constitutional provisions respecting voting. Under this doctrine, the Constitu-

tion consists of provisions of equal dignity, and is interpreted to give meaning to every part.

Regretfully, the Supreme Court in South Carolina against Katzenbach departed from this old and wise view of the 15th amendment. According to this expansive view of congressional power under the 15th amendment, Congress can and has nullified State power to set voter qualifications without any judicial or reasonable determination that such qualifications violate the 15th amendment.

If literacy tests, constitutional on their face and as applied, can be prohibited by Congress as in the 1965 act, then what is left of State power over voter qualifications?

If a State or county must submit every proposed change in its election laws to the U.S. Attorney General for approval, as is required by the 1965 act, what remains of State power to establish any laws governing the electoral process?

As much as I disagree with the interpretation of section 2 of the 15th amendment which was invented to validate the Voting Rights Act of 1965, I am even more concerned by the Supreme Court's new interpretation of section 5 of the 14th amendment for the same purpose.

The Supreme Court in *Katzenbach v. Morgan*, 384 U.S. 641 (1966), asserted that section 5 of the 14th amendment in effect grants Congress the power to define the equal protection clause. This new theory of congressional power to enact "appropriate legislation" to secure equal protection of the law is a theory which can be employed to eliminate all State legislative and judicial power over any matter. The constitutional theory set forth in *Katzenbach* against *Morgan* could quite literally establish the basis for dismantling completely the federal system provided for in the Constitution.

In *Katzenbach* against *Morgan*, the Supreme Court held that section 4(e) of the Voting Rights Act was constitutional. That section prohibits a State from establishing an English literacy test as a prerequisite to voting and declares that persons who have obtained a sixth grade education in an American-flag school where the predominant language is other than English are qualified to vote.

Thus the Court in the *Morgan* case ruled that Congress under section 5 of the 14th amendment could nullify a State statute which the Court admitted was in perfect harmony with the Constitution and which we passed pursuant to power given the States under the four articles of the Constitution I have quoted. In place of this valid statute, Congress passed its own voter qualification statute in violation of grants of power withheld from it by four provisions of the Constitution.

In effect, the Court decided that the Constitution is a set of mutually repugnant provisions of unequal dignity; that section 5 of the 14th amendment can swallow up the rest of the Constitution; that through it, Congress can set at naught all other restrictions on its power found in the Constitution.

Already some witnesses have broached

the idea that the voting age could be lowered nationally to 18 by means of congressional statute rather than constitutional amendment. And I think I saw a gleam in the eyes of some of my brethren when they heard this suggestion. I only hope their good sense prevails, and they restrain themselves from such temptation.

For I confess I agree that if the very illogical theory of Justice Brennan in the *Morgan* case is carried to its logical conclusion, such an age limitation could be established by statute. And, I might add, if this very illogical theory is carried to its logical conclusion, Congress could set the voting age limitation at 15 years, 16 years, or 30 years.

Mr. Justice Brennan wrote the majority opinion in *Morgan*. In it, he said:

Correctly viewed, Section 5 is a positive grant of legislative power authorizing Congress to exercise its discretion in determining whether and what legislation is needed to secure the guarantees of the Fourteenth Amendment. 384 U.S. 641.

Thus, if Congress determines in its own boundless wisdom that a certain State action violates or threatens to violate or might conceivably violate equal protection of the law, it can, in effect, render meaningless the constitutional source of power for that particular State action. The power to set voting qualifications is only one of the State powers which Congress could eliminate under the guise of enforcing the equal protection clause.

Congress could do anything else it wished to nullify State law and State power if, in doing so, it claimed it was sheeking to make certain no State ever violated equal protection. In fact, the best way to insure that no State ever violates the equal protection clause, or the due process clause, or the privileges and immunities clause of the 14th amendment, would be to replace all the State laws by Federal laws.

In the view of Justice Brennan, Congress' power under section 5, with respect to equal protection and due process, is as broad as its power under the commerce clause. Justice Brennan further said that the Court's function to review congressional action under section 5 was as limited as its power under the commerce clause. He quoted John Marshall in *McCulloch* against *Maryland*:

Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consistent with the letter and spirit of the Constitution, are constitutional. 384 U.S. 641 (1966).

Mr. President, I submit that in making that statement, Justice Brennan totally misapplied the words of Chief Justice John Marshall. An act of Congress nullifying a State statute or State constitutional principle establishing a voting qualification is not within the scope of the Constitution. Indeed, it is contrary to the Constitution. It is not consistent with the Constitution. Indeed, it is prohibited by four different provisions of the Constitution.

Notwithstanding these things, Mr. Jus-

tice Brennan necessarily held that something which the Constitution four times prohibits is legitimate, and thus reaches the queer conclusion that the fifth section of the 14th amendment gives Congress the power to nullify a State law which is in perfect harmony with the 14th amendment and which Congress is prohibited from passing by four provisions of the Constitution.

In the words of one of our witnesses, the only restraint upon Congress' authority under section 5 is the collective wisdom of the members of this body.

Mr. President, the Constitution was written to put restraints on government. The Founders rejected the theory that the liberty of a free people should depend on the self-restraint of the Governors. Yet, under Justice Brennan's theory, Congress can legislate on all matters from before the cradle to after the grave. And the only protection we now have for the preservation of our liberties is the hope that Congress will exercise self-restraint.

Such are the logical consequences of the illogical theory of the *Morgan* case.

THE PROVISIONS OF THE 1965 ACT

The 1965 act contains provisions which are contrary to some of the most basic principles of the Constitution, and to elementary notions of fair legislative play. Despite the fact that it is unconstitutional, unfair, and vindictively regional legislation, the 88th Congress enacted it in 1965. I only hope that the 91st Congress will be more disposed to listen to reason and not extend it.

THE TRIGGER DEVICE

An examination of the act demonstrates that even under the expansive "Supreme Court-*Morgan*" theory, it can hardly be deemed "appropriate" legislation to secure voting rights.

The formula used to bring six Southern States and 39 counties of North Carolina under the provisions of the act contains no reference whatever to a denial or abridgment of the right to vote on account of race, color, or previous condition of servitude. It arbitrarily and illogically assumes a violation of the 15th amendment whenever but only when States and counties with literacy tests had less than 50 percent of their voting-age population registered or actually voting in the 1964 presidential election.

Under this theory, a State could register all of its citizens, of every race, and yet if 51 percent chose not to cast their votes in an election year, the State would be condemned of a discriminatory use of its literacy test. How this can be logical, I do not know. For 5 years no one has explained its logic to me.

Let me give another illustration of this illogical trigger. Assume that a county has 25 percent of its population of the Negro race, and 75 percent of the Caucasian race. Assume all of the blacks register but less than one-third of the whites do. Under this law, that county stands condemned of discriminating against blacks by a literacy test. And if all the blacks vote and less than one-third the whites vote, then the county

has discriminated again against blacks by requiring a literacy test.

The practical absurdity of this formula can be documented by comparative voting statistics of North Carolina and New York, both of which had literacy tests in 1964, as they still do. Fifty-two percent of all North Carolinians of voting age voted in the 1964 presidential election. Nevertheless, 39 of North Carolina's 100 counties were presumed by the Voting Rights Act of 1965 to have violated the 15th amendment merely because they voted less than 50 percent and the State had a literacy test declared by the Supreme Court in 1959 to be consistent with the 14th and 15th amendments.

New York County, N.Y., voted only 51.3 percent in the 1964 election, yet it is untouched by the 1965 act. Hyde County, N.C., which voted 49.7 percent, is presumed to have violated the 15th amendment. How can it seriously and reasonably be asserted that a presumption of voting discrimination on account of race can depend upon a failure to achieve 50 percent voter participation by three-tenths of 1 percent, but no presumption exists because of a margin of 1.3 percent.

If "political subdivisions" in the 1965 act had included present congressional districts, the New York district represented in Congress by Congressman ADAM CLAYTON POWELL would now be condemned under the act because in that district less than 50 percent of the voting age population voted in the 1964 presidential election. Is it reasonable to assume, from the existence of the New York State literacy test and the 1964 voter turnout, a violation of the 15th amendment in Mr. POWELL's district?

Mr. President, it was no accident that the formula incorporated in the 1965 act resulted in exclusive application of that statute to Southern States. Only a cynical determination to punish a particular region of the country can explain why 39 counties of North Carolina were condemned as having violated the 15th amendment when there has been not one bit of evidence that any person has been denied the right to vote on account of race in North Carolina.

THE 1968 ELECTION RESULTS

If there is no logic in the formula of the 1965 act to show a violation of the 15th amendment, there is even less logic and no justification in continuing to rely on 1964 statistics in the face of a subsequent presidential election.

North Carolina met the 50-percent requirement again in 1968. Of the 39 North Carolina counties covered by the 1965 act, every county registered more than 50 percent of their respective voting age populations in 1968.

Only eight counties appear to have voted less than 50 percent in 1968, and it is instructive to note that in one of these counties the black voter registration exceeds the total registration of voters.

A number of North Carolina counties are subject to the act only because their large, predominantly nonresident military populations are included in the computation of the trigger. If we use

1968 figures, and exclude nonresidents and disqualified persons, and if we eliminate the incomprehensible 50-percent voting standard as proof of discrimination in registration, then North Carolina would be completely free of this act which has unjustifiably condemned it of violating the Constitution.

By way of contrast, in at least four counties in New York State, a State with a literacy test, less than 50 percent of the estimated voting age population voted in 1968. Yet, these counties will not be condemned under the proposed extension of the Voting Rights Act because only 1964 election figures are now relevant to a violation of the 15th amendment.

While I would prefer, of course, to see this discriminatory legislation suffer its long overdue demise, I cannot ignore the inclination of the Congress to enact any legislation tagged as "civil rights" legislation. Therefore, in order to provide some sense of reasonableness and fairness in the trigger device, I have submitted amendments to the 1965 act substituting 1968 election voting figures for the 1964 figures as the basis for bringing States and counties under the operation of the act. I also propose that nonresident military personnel, nonresident students, convicted felons, and inmates of mental institutions—all of whom are disqualified from voting—be excluded from the computation of the trigger mechanism.

Despite the fact there have been no allegations of racial discrimination in voting in North Carolina between 1965 and 1970, 39 of North Carolina's counties continue to be condemned as having violated the 15th amendment. The fact that, as one witness before the subcommittee reported, only 19,000 more black voters have registered in North Carolina since the enactment of the 1965 act would appear to suggest, according to reasoning of those who support an extension of the act, that presumed violations of the 15th amendment in North Carolina, remedied by the 1965 act, did not and do not account for the level of black voter participation in North Carolina. And yet, North Carolina stands condemned.

Mr. President, proponents of extending the 1965 act insist on using 1964 voting statistics as the exclusive test in determining a violation of the 15th amendment. They do this with the knowledge that this insistence means that only Southern States and counties will continue to be affected by the provisions of the act. This frankly cynical argument confirms completely my original suspicions that the 1965 act was designed specifically to condemn one region of this country and thereby to deny to States of that region their constitutional power to set voter qualifications as enjoyed by every other State in the Union. This is as much admitted by them. The only argument I have heard is the frank reason—and cynically frank reason—that if we use 1968 results, some of the States now covered would no longer be covered.

SECTION 5

One of the particularly onerous forms of discriminatory treatment is incorporated in section 5 of the 1965 act. Under that section a State or political subdivision condemned under the trigger device of the act must submit any changes in its election laws to the Attorney General or the three-judge district court for the District of Columbia. The State of North Carolina, which, in this century, has never been proven guilty of denying a single person the right to vote on account of race, must, hat-in-hand, take every change in its election laws to Washington for approval by persons who have no constitutional authority whatsoever over voter qualifications.

The scope of authority of section 5 has been vastly increased by a recent Supreme Court decision, *Allen v. State Board of Elections*, 393 U.S. 544, (1969). In that case the Supreme Court defined the act's language—"any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting"—to include "any State enactment which altered the election law of a covered State in even a minor way." (393 U.S. 544). The Court determined that, among other changes, a change in the method of selecting a county official, from election to appointment, had to be submitted to the Attorney General. Changes in city limits, candidate filing fees, times during which polling places are open for voting, and any other State or county law or rule in any way connected with voting must be approved by a Federal court in the District of Columbia or an officer of the U.S. Government who has traditionally been the President's "chief political advisor." The 1965 act substitutes the Attorney General for George III, who "has refused his assent to laws, the most wholesome and necessary for the public good." That is a quotation from the Declaration of Independence.

(At this point Mr. EAGLETON took the chair as Presiding Officer.)

Mr. ERVIN. Mr. President, though the indignity and unconstitutionality of this provision are alone sufficient reasons to oppose section 5, the testimony of a Justice Department lawyer who helped write the 1965 act is conclusive proof that there is no basis for continuing this usurpation of State power. He testified before the Subcommittee on Constitutional Rights that section 5 had been of minimal, if any, assistance in securing the right to vote against racial discrimination. As he told the subcommittee:

What we conclude, then, from more than four years' experience with Section 5, is that while it may have some benefits, they are outweighed by the burdens incident to its enforcement and the possible abuses inherent in it.

It has been over 100 years since Gen. Robert E. Lee surrendered at Appomattox. I am still waiting for the day to arrive when a Southern State will be entitled to full recognition as a member of this great United States. Until the Congress ceases from enacting discriminatory and undignifying legislation of the nature of section 5 of the 1965 act,

the reality of a true union remains merely a hope for the distant future.

EFFECTIVENESS OF THE 1965 ACT

While my fundamental objectives to the 1965 act are on constitutional grounds, I must question also the reasonableness of extending this act on the grounds of its effectiveness in securing the right to vote. There are those who casually assert that the large increase in black registration figures in the covered States between 1965 and 1970 is a direct result of the 1965 act. And yet, Mr. President, there are at least two important pieces of evidence which seriously challenge that assertion.

In North Carolina, before the enactment of the 1965 act, there were approximately 260,000 blacks registered to vote. By 1970, that number had increased to approximately 279,000. This represents about a 7 percent increase over 5 years. Considering only the factor of those blacks reaching 21 years old during this 5-year period, it is unlikely that any of this increase could be reasonably attributed to the 1965 act.

While admittedly more difficult to evaluate, the existence of widespread, well-financed black voter-registration drives throughout the South in the 1960's, and particularly since 1964, has been of great importance in increasing black voter registration. The director of one of these efforts reported to the subcommittee that since 1962 his organization has distributed nearly 500 grants and expended about \$3 million to register black citizens in the 11 States of the South. He said that he believes his organization, through its programs of research and publicity, has been responsible for the registration of about 11 million blacks throughout the South since 1962.

Mr. President, if these figures are even reasonably accurate, it has been the voter registration drives in the South, not the 1965 act, which have resulted in the increases in black voter registration in the 1960's. This fact again confirms my suspicion that the attempt to continue the 1965 act is a cynical and sad effort by some to browbeat the Southland in hopes of political gain in their own States.

EXCLUSIVE VENUE IN THE U.S. DISTRICT COURT IN WASHINGTON

The act also does violence to common notions of fair judicial process. For instance, the law provides that a State or county covered by the formula may escape the disabilities imposed only by obtaining, from a three-judge district court convened in the District of Columbia, a declaratory judgment to the effect that neither the State nor the county nor any person acting under color of law has during the preceding 5 years denied or abridged anyone's right to vote because of race or color.

The law slams shut the doors of every court in the United States to States covered by the formula, except the district court of the District of Columbia. There is no valid reason why a case cannot be disposed of with the same intelligence and integrity and the same dispatch by a three-judge court sitting in Charlotte,

N.C., or Richmond, Va. A law compelling State officials to travel hundreds, or even thousands of miles at great expense to seek justice is not a fair law.

I believe I should quote a little more of the Declaration of Independence for the benefit of those who profess to see in this act a vindication of the principles it contains. One of the reasons Thomas Jefferson gave for the colonies severing their bonds with the mother country England was "for transporting us beyond seas to be tried for pretended offenses." Yet, 190 years later, Congress requires the same thing.

This is an extraordinary provision of the law, one which has little actual precedent behind it—and no worthy precedent. What this is, in effect, is a statement that Federal judicial officers so unfortunate as to have been born in the South, or to hold court in the South, must be presumed to violate their oath of office when voting rights cases come before them. It is an insult to the dignity and honor of those judges, and it is sorry commentary on the good sense of the Congress. For everyone knows that there is no more liberal court sitting in this country on civil rights cases—the Supreme Court itself not excepted—than the judges in the Fifth Circuit U.S. Court of Appeals, which covers most of the States subject to the law.

THE GASTON COUNTY CASE

I must say that, in view of the Supreme Court's decision in Gaston County against United States, it would appear that under no conceivable circumstances would the expense of traveling to the District of Columbia district court be justified. Despite the assurances of those who supported the 1965 act, even a jurisdiction found to be completely innocent of any voter discrimination over the past 5 years, cannot escape the net of the magic formula, under this decision.

The Gaston County case, decided on June 2, 1969, is another example of the regrettable habit of the Supreme Court of altering the work of Congress to conform with its own notions of desirable legislation.

In March of 1966, the Attorney General determined that Gaston County, N.C., fell under the ban of the Voting Rights Act because less than 50 percent of the eligible voters had registered and voted in the 1964 election. This automatically suspended the literacy test—a determination from which there is no appeal. In August of 1966, pursuant to the provisions of the act, Gaston County brought an action in the Federal district court in Washington, D.C., seeking to reinstate the literacy test by showing that it had not been used during the last 5 years for the purpose or with the effect of denying to any person the right to vote on account of race or color.

In a 2-to-1 decision the three-judge district court held that since Gaston County had maintained segregated schools for many years prior to passage of the act, Negroes presently of voting age had attended schools of inferior quality. Therefore, it followed that the literacy tests operated to discriminate

against them. The Supreme Court in a 7-to-1 decision affirmed the district court's determination and its reasoning.

The Court quickly brushed over Gaston County's contention that any person subjected to the slightest amount of education could pass the simple literacy test established by North Carolina. The North Carolina constitution provides that "any person presenting himself for registration shall be able to read and write any section of the Constitution in the English language." In practice, officials in Gaston County made this process even simpler. The only thing a person had to do was copy any sentence from the constitution, and he was allowed as much time as he needed. In Gaston County this was more a test of penmanship than of literacy.

Uncontested testimony was presented at the trial by a Negro school principal to the effect that all of the schools in Gaston County "would have been able to teach any Negro child to read and write so that he could read a newspaper, so that he could read any simple material." Obviously, any person with a third-grade education could pass the simple North Carolina test of copying one sentence from the State constitution. Furthermore, Judge Skelly Wright, who wrote the district court decision, stated that the test had not been deliberately used for the purpose of discrimination.

The Voting Rights Act makes it clear that Congress did not intend to abolish all literacy tests. Furthermore, Congress did not intend to suspend literacy tests irrevocably even where the trigger-device operated. Congress set forth detailed provisions—stringent as they may be—to permit States and counties to escape from the provisions of the act if they could show that the tests had not been discriminatorily used during the previous 5-year period.

The Court, however, has added a new provision to the act by keeping under its provisions all States and counties which, prior to 1954, maintained a separate school system. The Court ignores the fact that the "separate but equal" doctrine was the law of the land until 1954. And it should be remembered that Plessy against Ferguson, which established the "separate but equal" doctrine, was not a product of Congress or the Southern States—it was the work of the Supreme Court.

To eliminate the exclusive venue of the district court for the District of Columbia, I have submitted an amendment to the 1964 act which would open the doors of the district courts for the States or counties which might be affected by the act.

EXAMINERS AND REGISTRARS

Section 4(a) provides that if 20 or more residents of a State or political subdivision allege that "they have been denied the right to vote under color of law by reason of race or color, and that the Attorney General believes such complaints to be meritorious, or that in his judgment the appointment of examiners is otherwise necessary to enforce the guarantees of the 15th amendment, the

Civil Service Commission shall appoint as many examiners in such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections."

This section gives the Attorney General complete discretion as to whether voting examiners should be appointed in the areas covered by the bill. The Attorney General is not even required to offer reasonable grounds for his action or for his belief that the right to vote has been denied by reason of race or color and that the appointment of examiners is necessary. It is an unconstitutional delegation of authority to the Attorney General to let the constitutional rights of the States to regulate elections and to set reasonable and non-discriminatory voter qualifications depend merely upon his belief that the appointment of examiners by the Federal Government would facilitate enforcement of the 15th amendment.

Once again we might look to the Declaration of Independence for wisdom on this power of the Attorney General—"He has erected a multitude of new offices to harass our people and eat out their substances."

THE 1965 ACT AMOUNTS TO A BILL OF ATTAINDER

The legislative condemnation of the 1965 act of Southern States and election officials constitutes a bill of attainder expressly forbidden by the U.S. Constitution. The people of seven States and parts of other States, and more particularly the State election officials in those areas, are convicted under the formula of the 1965 act of violating the 15th amendment without any semblance of judicial trial. Chief Justice Warren in South Carolina against Katzenbach did not deny that this condemnation constituted a bill of attainder but dismissed the contention on the basis that the constitutional prohibition against the bill of attainder does not protect States.

This is a most peculiar opinion, which must have caused Mr. Warren much difficulty to write. States are not metaphysical concepts, like incorporeal hereditaments, which exist in the minds of lawyers. They are composed of people, acting through other people who are their agents as State officials. The condemnation of a State is the condemnation of State officials and the citizens who selected them. To say that the bill of attainder does not protect the States is to say that it does not protect State officials. Yet the Supreme Court in *U.S. v. Lovett*, 328 U.S. 303 (1946) ruled quite rightly that the prohibition against bills of attainder operates to protect Federal officials.

EQUALITY OF THE STATES

The 1965 act violates another one of the most fundamental doctrines of our federal system of government, the equality of the States. The act operates to deny to certain Southern States the constitutional authority given all States to prescribe voting qualifications. While I believe that in the absence of proof of racial discrimination, any restriction by Congress on the States power to set vot-

ing qualifications violates the Constitution, certainly a restriction on the power of only certain States constitutes an even greater disregard of constitutional principles.

The Supreme Court overcame this hurdle in a most unusual way. In South Carolina against Katzenbach it said that the doctrine of equality of the States applies only to the moment of entry into the Union. Before entry, they are not equal as territories. After entry, one micromillisecond after admission, they are again no longer equal. In effect, the Court has said that there can be as many varieties of States as there are Heinz' pickles—although I do not believe you can make kosher pickles out of such an unkosher doctrine.

In concluding, Mr. President, I reiterate my belief that every American regardless of race, color, or creed should have the right to vote. With others, I share the view that the right to participate in the American political process underlies all other rights. But I also believe it my duty as a U.S. Senator to uphold the Constitution of the United States. It is, after all, this instrument which secures for all Americans those rights which have made this country or theoretically have made this country a land of "liberty and justice for all."

In my judgment, the Voting Rights Act of 1965 is clearly contrary to the plain language and the sacred principles of the Constitution. Because of this, I vigorously opposed the enactment of the 1965 act. On these same grounds, I oppose its extension. Not only does the act violate the language of the Constitution, but it treats six Southern States and 39 counties of my own State as "conquered provinces." I hope that the time will soon arrive when American citizens living south of the Mason-Dixon line can be accorded full faith and credit for being as determined to honor the principles of the Constitution as citizens living anywhere else. Until that time, I must continue to speak out against the kind of unconstitutional and discriminatory legislation which is presently before this body.

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

Mr. ERVIN. I am delighted to yield to the distinguished junior Senator from Alabama.

Mr. ALLEN. Mr. President, I wish to commend the able and distinguished Senator from North Carolina on this very learned, erudite, and scholarly speech. I just wish that this speech, which in itself, rises to the quality and far exceeds that of an opinion of the Supreme Court, could be substituted for the Supreme Court decisions upholding the constitutionality of the 1965 Voting Rights Act.

Mr. ERVIN. I thank the distinguished Senator from Alabama for his compliment to me. I also would like to assert that if this speech were substituted for the decision on the 1965 act, certainly it would be more in harmony with the letter, and spirit, and purpose of the Constitution than the decisions handed down by the Supreme Court on this subject.

Mr. ALLEN. I certainly agree with the distinguished Senator from North Carolina. I invite the attention of the Senator to the fact that the 1965 Voting Rights Act contains 19 sections, and that 17 of those sections are permanent legislation. Only two of the sections, sections 4 and 5, will expire on August 7, 1970, unless renewed by action of Congress.

I should like to ask the Senator from North Carolina if it is not true that the 17 sections that would continue as permanent law of the land are applicable to all of the 50 States, and if they themselves constitute an ample method, a satisfactory method, a full and complete method, of protecting any citizen of this country against discrimination in voting because of race or color?

Mr. ERVIN. There is no doubt of the truth of the statement implied in the question of the Senator from Alabama.

Mr. ALLEN. So actually we do have a Voting Rights Act applicable to all 50 States?

Mr. ERVIN. Yes, and there are more voting rights laws in the United States Code than can be found on any other subject.

Mr. ALLEN. So, if any citizen feels he is deprived of any right given to him by the 15th amendment of the Constitution, there would be no difficulty in getting redress even if the temporary sections of the Voting Rights Act were allowed to expire?

Mr. ERVIN. There is no question about that, because under existing laws one can bring civilian actions to compel election officials to let him register and vote. He can bring a suit against those who deny him that right. He can then invoke the equity powers of the court against them and others for that purpose. If he does not wish to bring a suit himself, he can go to the Attorney General of the United States and secure the services of the Department of Justice.

Moreover, if he feels he has been denied the right to vote, he can go to the district attorney and have a criminal prosecution instituted against the offending official.

Mr. ALLEN. I read from a summary of the 17 sections that are a permanent part of the law:

(1) When the Attorney General brings a suit under the 15th Amendment to protect voting rights against racial discrimination, the court is empowered to enter either an interlocutory order or a final judgment requiring the Civil Service Commission to appoint Federal examiners to register voters;

(2) In such suit, the court is empowered to suspend the use of literacy tests "for such period as it deems necessary";

(3) In such suit, the court retains jurisdiction "for such period as it may deem appropriate" and during that period, the State cannot implement any change in its voting laws until the court determines that the new law will not have the purpose or effect of racial discrimination or until the Attorney General of the United States has failed, within 60 days after submission, to object to the new law;

(4) When Federal examiners have been appointed under such suit, the Attorney General may require the Civil Service Commission to send Federal observers to the local voting precinct to oversee the process of voting and the tabulation of votes;

(5) No State may enforce a literacy test with respect to a registrant who has completed the 6th grade in a non-English-speaking school;

(6) Criminal penalties of 5 years in jail or a \$5,000 fine, or both, can be imposed upon anyone convicted of depriving, attempting to deprive, or conspiring to deprive any person of his voting rights on account of race or for destroying, defacing, mutilating, or altering ballots or official records; and

(7) The Attorney General is empowered to bring a suit for an injunction when he has reasonable grounds to believe that any person is about to engage in any act prohibited by the Voting Rights Act.

Do not the remaining 17 sections of the act, not counting sections 4 and 5, give adequate redress to any citizen?

Mr. ERVIN. They certainly do, in an overwhelming manner. The brethren who advocate sections 4 and 5, however, do not think that people who reside in Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, and Louisiana should be accorded a judicial trial before they are condemned by law, so they want Congress to do the condemning and deny them any adequate way to ever recover from the condemnation insofar as obtaining a right to exercise their constitutional authority again is concerned.

Mr. ALLEN. I thank the Senator.

Is it not true that the provisions of sections 4 and 5 provide an automatic triggering device aimed at certain States?

Mr. ERVIN. Aimed at certain States which were carefully selected first, and then the triggering device was carefully devised so as to condemn those States and no others.

Mr. ALLEN. The target was arrived at first, and then the means of hitting that target devised?

Mr. ERVIN. I said in a colloquy with the Senator from Michigan that President Johnson, who was from the State of Texas, suggested this law, and that the law was administered, under the supervision of President Johnson, by Mr. Ramsey Clark, another Texan. The law was so phrased as to condemn Louisiana although the record of the State of Louisiana was far superior with respect to voter registration and voting than the record of Texas. It was also designed to condemn 39 counties in the State of North Carolina, when the record of registration and voting in those 39 counties was far higher than it was in the counties of Texas. The President and the Attorney General did not want to condemn Texas.

Mr. ALLEN. They did that by coupling with the 50-percent requirement the fact that a State must also have a test or device which allegedly abridged or denied the right to vote.

Mr. ERVIN. That is true. That was done because Texas has no such literacy test. I guess they figured all Texans were smart enough to vote even though they were not able to read or write. I have heard a lot of wonderful things about Texans.

Mr. ALLEN. I ask the Senator whether it is fair and equitable to provide that in States with more than 50 percent registered or voting in the 1964 election, the

counties with fewer than 50 percent would be subject to the provisions of the law; whereas if a State had less than 50 percent voting and some of the counties had more than 50 percent, yet the law applied to those counties that had the 50 percent of qualified voters?

Mr. ERVIN. I think the opinion of the Senator from Alabama coincides exactly with that of the Senator from North Carolina on that question.

Mr. ALLEN. On the 50-percent requirement, was any basis established that had a bearing on whether there was any discrimination against minority races? Would it have been possible for a State to remain outside the provisions of the law if all 50 percent of the participating voters were white and not a single colored person was registered in the State?

Mr. ERVIN. There is no question about that. To reverse the answer to the question, if a State had a population of 40 percent black and 60 percent white, and all 40 percent of the blacks were registered and all 40 percent of the blacks went out and voted and only 9 percent of the whites voted, that would show that that State was discriminating against black people.

Mr. ALLEN. In other words, if all of the voting-age population who were colored were registered and did vote, if it fell below the 50 percent then the act would apply?

Mr. ERVIN. That is right. To show how foolish the act is, applying it to Guilford County, N.C., under the triggering device, Guilford County has been held to have discriminated in registering and voting notwithstanding the fact that it is represented by a black man in the State legislature, notwithstanding that the courts are presided over by a black woman judge, and not withstanding the fact that at least two members of the city council of the county seat of that county are black men.

Mr. ALLEN. I should like to ask the distinguished Senator from North Carolina, also, if he thinks it is fair in the year 1970 to apply as a criterion for action at this time, conditions which existed in respect to States in November 1964.

Mr. ERVIN. That question answers itself. In my judgment, that requirement is an affront, an insult, to justice.

Mr. ALLEN. I certainly agree with the distinguished Senator. I thank him for the information he has given.

Mr. ERVIN. I thank the distinguished Senator from Alabama.

Mr. President, I yield the floor.

ORDER FOR RECOGNITION OF SENATOR EAGLETON TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, following the address of the able Senator from Arkansas (Mr. McCLELLAN) tomorrow, and prior to the period for the transaction of routine morning business, the distinguished Senator from Missouri (Mr. EAGLETON) who now so graciously, ably, and skillfully presides over the Senate, be recognized for not to exceed 15 minutes.

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

APPEARANCE OF SENATORS RIBICOFF, TALMADGE, AND MONDALE ON NBC'S "MEET THE PRESS"

Mr. BYRD of West Virginia. Mr. President, yesterday there appeared as guests on NBC's "Meet the Press" the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. TALMADGE), and the Senator from Minnesota (Mr. MONDALE). The moderator was Lawrence E. Spivak, and the panel consisted of Haynes Johnson of the Washington Post, Claude Sitton of the Raleigh News & Observer, Jonathan Spivak of the Wall Street Journal, and Ron Nessen of NBC News.

The three Senators presented varying views on the problem of school integration. It was a very enlightening and interesting program. Therefore, I ask unanimous consent to have printed in the RECORD the transcript of NBC's radio and television program entitled "Meet the Press" of yesterday, March 1, 1970.

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

MEET THE PRESS

Produced by Lawrence E. Spivak, Sunday, March 1, 1970.

Guests: Senator Abraham A. Ribicoff, Democrat, of Connecticut; Senator Herman E. Talmadge, Democrat, of Georgia; Senator Walter F. Mondale, Democrat, of Minnesota. Moderator: Lawrence E. Spivak.

Panel: Haynes Johnson, Washington Post; Claude Sitton, Raleigh News and Observer; Jonathan Spivak, Wall Street Journal; Ron Nesson, NBC News.

Mr. SPIVAK. Our guests today on "Meet the Press" are three Senators who represent varying views on the problem of school segregation: Senator Abraham A. Ribicoff of Connecticut, Senator Herman E. Talmadge of Georgia, and Senator Walter F. Mondale of Minnesota.

Senator Ribicoff's support of the Stennis Amendment has stirred up a new nationwide controversy on segregation in our schools. The amendment calls upon the Federal Government to deal uniformly with public school segregation in all regions of the country regardless of the origin or cause of such segregation.

I'd like to start the questioning now with Senator Ribicoff. Senator Ribicoff, there has been considerable confusion over what the Stennis Amendment would accomplish. Now, in the light of yesterday's Senate vote, what do you think it will accomplish? What does it really mean?

Senator RIBICOFF. Well, it means that in establishing guidelines under Title 6, that HEW will treat both the North and the South the same way under de jure and de facto segregation.

Mr. SPIVAK. Do you expect that is going to be voted finally?

Senator RIBICOFF. I hope so, Larry. Mr. SPIVAK. Senator Talmadge, you voted for the Stennis Amendment and I assume you are enthusiastically for it.

What do you think it means now? Would it speed school integration in the north or will it slow it down in the south?

Senator TALMADGE. That remains to be seen. I think largely it is psychological. It is the first time the Senate has, by affirmative vote, since I have been a member of the body, some

13 years, agreed that the south ought to be readmitted to the Union and that all laws ought to apply the same throughout the nation.

Mr. SPIVAK. Do you expect it will speed desegregation in the South?

Senator TALMADGE. I don't know what action they will take in the Department of HEW and in the federal courts, but I do know that all laws, whatever they are, all rules, all regulations, whatever they are, ought to be applied uniformly in all fifty states.

Mr. SPIVAK. Senator Mondale, you voted against the Stennis Amendment. What do you think it has accomplished? What do you think it means?

Senator MONDALE. I don't believe the Senate Amendment does a thing about race isolation, so-called de facto isolation. I think it is designed solely to slow down and impair the activities of the HEW and other governmental agencies to require school districts to obey the law of the land which prohibits official discrimination. Also, I believe symbolically along with other recent actions, it raises serious doubts as to whether this nation any longer truly believes in an integrated society, is truly committed to a society in which race is irrelevant. If that is its true significance, if that is the direction in which we are going, I think we are going to be a very sick society indeed.

Mr. NESSEN. Senator Ribicoff, ten days ago the Senate approved the Stennis amendment. You voted for it and a lot of people said this meant the end of 16 years of trying to integrate Southern schools. Then yesterday the Senate turned around and in effect nullified any bussing and freedom of choice amendments and you voted to nullify them.

What happened in 10 days? Why did the Senate turn around in ten days?

Senator RIBICOFF. They haven't turned around at all, sir. It shows how consistent the Senate really is. The Senate, by its vote yesterday, indicated that it supports the Supreme Court and is for desegregation. This was the significance of the vote yesterday, and I am for that, too, and always have been. But ten days ago when we voted for the Stennis amendment, the Senate in its wisdom—and I think it was wise—said as a policy "If you are going to have desegregation, it should be equal desegregation, North and South, all over the nation, to treat all the states the same, irrespective if the segregation was due to de facto or de jure causes.

Mr. NESSEN. Well, Senator Talmadge says the effect of the Stennis amendment is psychological. Isn't that true, isn't it encouraging the South to resist? Some judges in fact have already thrown out integration plans since the Stennis amendment was passed.

Senator RIBICOFF. I am not aware of what you say, and I don't think that is the reason at all. The purpose of the Stennis amendment as I personally see it, in my motive is to make sure that we have a national policy consistent with the national problem, and we will never solve the national problem and have the national policy until Northern whites realize that they have to move away from their hypocrisy and recognize that they just can't sock it to the South, because they must take action themselves in the North to eliminate de facto segregation which in many instances is worse than it is in the South.

Mr. SUTTON. Senator Talmadge, specifically what steps would you advocate that the federal government take to implement the Stennis policy of desegregation North and South?

Senator TALMADGE. I think ultimately we are going to have to resolve the situation in accordance with the Constitution and the Act of Congress, the Civil Rights Act of 1964. The 14th Amendment and the Brown deci-

sion so held in 1954 that we can no longer classify children by race in our school system.

Now, the 1964 Civil Rights Act also implemented that, and they held that you cannot assign or bus students back and forth to achieve a racial balance. I think the court is going to have to say and this country is going to have to say that schools shall be open to all, regardless of race, creed or color, that anyone can go to any school he sees fit. In effect have freedom of choice just as the same as we have in our living conditions, our working conditions and every other area of human activity.

Mr. SUTTON. Then would you vote money for a national effort to eliminate all segregation, North and South?

Senator TALMADGE. Well, we have eliminated all segregation North and South, first by the Brown decision in 1954 and also by the Civil Rights Act of 1964. But when you eliminate segregation then where are you? Are you going to run out and run down people and drag them into schools where they don't want to attend and do the same for teachers, and if you are going to adopt that policy, are you going to make it universal about neighborhoods, working conditions and otherwise? I don't think you can have a police state, and that is what would be required to achieve it.

Mr. J. SPIVAK. You proposed establishing a committee to examine the problems of segregation in the North and in the West.

What would we learn as another study of this that we don't know now?

Senator MONDALE. This committee which has now been established and which I will chair, is the first serious study perhaps in the history of the Congress. We don't really know what to do with what is called de facto segregation. This was segregation which does not arise from official policy, school board discrimination and the rest, but because of residential living patterns. What is racial imbalance? What should be done to deal with it? Busing, fair housing enforcement, the construction of new schools and their location. The redesign of school boundaries and the whole question of quality compensatory education as it collides with the issue of racial isolation.

I think this host of issues comprises the most important and the most explosive issue affecting the health of our nation and it is one which I hope the Senate and the Congress can grapple with.

Mr. J. SPIVAK. What steps at this point seem most fruitful to you to deal with the problems in the North and the West?

Senator MONDALE. Let me say there, one thing we should not do is to delay the enforcement of the orders of the Supreme Court and that is why I opposed the Stennis Amendment. There are nearly two million black children as of the fall of 1968 attending all black schools in the 17 southern and border states. De jure segregation is very much a fact of life in the South and in some other areas in the North as well, and I strenuously object to abandoning this objective of a uniform national policy of elimination of de jure segregation.

Secondly, we must sort out the facts on de facto segregation, which is not illegal, but undesirable, and find out how we might best achieve an integrated society, how we might best achieve good education because at the same time these children are being separated they are being desperately denied in terms of a decent education and these are the kinds of issues I hope we can grapple with.

Mr. JOHNSON. Senator Ribicoff, given the attitudes in this country both black and white, separatism, decreasing polarization, there are some who say that really integration really isn't realistic any more. Do you believe that? As a goal.

Senator RIBICOFF. As a goal, it is realistic, but you have to take every community by itself. It is not realistic in the city of Washington where 94 per cent of the students are black. No matter what you do, you can't take 94 and 6 and make it fifty-fifty.

In the City of Chicago, where you have 30 square miles of blacks, it isn't realistic in Chicago, but it is realistic in many sections of the country and that is what we have to address ourselves to. Where it isn't realistic, we must make sure that we have quality education for black schools as well as white.

Mr. JOHNSON. When you say "quality education," you don't mean the separate but equal system we had under segregation?

Senator RIBICOFF. I don't mean that, but I want as good a school as I can find every place, whether they are segregated or desegregated, and we have a society, unfortunately, that is segregated and as long as you have a segregated society, you are going to have segregated schools and I think the most unfortunate thing in America is to try to solve all our problems on the backs of children.

Mr. NESSEN. Senator Talmadge, there is a lot of confusion about President Nixon's position in this debate over bussing, freedom of choice, integration.

As a Southerner, what do you think his position is? Is he for you or "agin" you?

Senator TALMADGE. I don't know. I wish I did know. Once he makes up his mind, I hope he and Secretary Finch will be on the same side.

Mr. SUTTON. Senator Mondale, let's go back to this question of origin. Why is origin so important? Shouldn't the goal be to eliminate these inequities wherever they exist, North and South; de facto, de jure; what-have-you?

Senator MONDALE. Yes, I agree with that, but as a matter of fact, the United States Supreme Court, for 16 years has declared it to be a violation of the Constitution of the United States to officially sort children out. That is a matter of school board policy, and send the black children to one school and the white children to another. This is still very much a fact of life in any number of school districts and affects nearly two million black children in this country.

That must be eliminated, in my opinion, and the distinction between de jure segregation, which is a violation of the law of the United States, and de facto segregation, which is perfectly legal, but in my opinion undesirable, is one that must be kept in mind because it affects the enforcement policies of our courts and of the administration and it affects the way in which we will deal with de facto segregation as well.

Mr. SUTTON. All right, specifically what should the Federal Government do to eliminate de facto segregation in the North and in the South? De facto exists in the South too.

Senator MONDALE. Absolutely, and I am glad you made that point because I think if we can eliminate official discrimination we will still be left with a national pattern, an increasing pattern of racial isolation. I will be frank to admit I don't know the answers. I will be frank to admit that I think the Congress and the North and the Executive have been very negligent in this field.

I have indicated, in response to an earlier question, some of the types of answers that might be applied.

I think they will vary district by district and it is the hope of this equal-educational committee to focus on this in the most searching terms, not only with hearings in Washington, but with field trips to see if we can't come up with a national policy which will deal with the disgrace of racial isolation in the North and elsewhere, as well as the problems of official discrimination found principally in the South.

Mr. J. SPIVAK. Senator Ribicoff, in your speech in which you supported the Stennis amendment, you suggested the solution to the problem of segregation in the central cities lay in the suburbs.

Senator RIBICOFF. That is correct.

Mr. J. SPIVAK. What steps can realistically be taken in the North and in the West to integrate city and suburban schools?

Senator RIBICOFF. First, there is an obligation of private industry that when it moves into the suburbs it assures that housing is available for its black employees. Eighty per cent of the jobs created in the last two decades have been in the suburbs.

Secondly, no federal installation should be built in any section of our country unless there is an assurance that black employees have housing.

Thirdly, the Federal Government should give special aid and assistance to those suburbs who are willing and make it possible for blacks to live in these particular areas. This is very important; to give them assistance for additional schools, additional recreational facilities, and additional health facilities. This becomes very important.

Mr. J. SPIVAK. Would you favor the Federal Government or the states taking steps to combine metropolitan school districts merging city districts and suburban districts?

Senator RIBICOFF. No, I think physically that is almost impossible to do because I don't think the Federal Government has authority to tell the states how to combine their communities. But it becomes absolutely essential for the Federal Government to encourage, and private industry to encourage, the suburbs to open up its doors for blacks.

Mr. JOHNSON. Senator Talmadge, as a southerner and as a Democrat, how would you assess President Nixon's political prospects in the South today, given the strategy that some say he is employing to get the South on his side, by placating conservatives and the rest?

Senator TALMADGE. I think it is too early to tell. I think by and large most southerners think to date the President has done a fair job, but he doesn't seek re-election now for two years. No one can foretell what will happen at that time.

Mr. JOHNSON. How about Governor Wallace?

Senator TALMADGE. Well, Governor Wallace carried five southern states two years ago and my judgment is he probably would carry that many or more today.

Mr. NESSEN. Senator Mondale, are the parents of your state of Minnesota willing to have their children bused to achieve racial balance, and, if not, then why do you ask the South to do that?

Senator MONDALE. Well, first of all, the busing issue in official segregated schools is a red herring in my opinion. They are the granddaddy busers of all. There is more busing going on earlier in order to sort children out and distribute them to colored schools and to white schools than would be the case if they did it on the basis of geography.

The citizens of my community of Minneapolis and St. Paul have proven time and time again that they are willing to accept a series of changes to deal with racial imbalance in our schools. I am proud to report that we don't have a single all-black school. Most of our black children in Minnesota go to schools which are predominantly white and I am proud to say that Minnesota is one of those states that still believes that we can't have a healthy America unless we live together.

Mr. NESSEN. But more generally speaking, hasn't the experience of the past 16 years with whites fleeing to the suburbs basically been that most white parents do not want their children to go to school with black children all over, North, South and West?

Senator MONDALE. If I were to say that integration doesn't have problems, I would obviously be misleading you. I will say that there has been far more success in integrated schools than has been reported. Hundreds of thousands of black children are going to school with white children and it is working out very successfully. The whites are doing as well as ever and the blacks are doing far better, and they are learning to get along with each other.

There are still problems with integration, but if you want to have real problems, abandon this objective of a united society. Start separating us out on race, and then you will really start having problems in this country.

Mr. SUTTON. Senator Ribicoff, just one question: President Nixon's counsel, Pat Moynihan, says that the time has come when the racial issue would benefit from the benign neglect. Do you agree with that?

Senator RIBICOFF. I don't know what benign neglect means, but I would say Pat Moynihan is one of the most knowledgeable, sophisticated and realistic men in this country when it comes to the problem of dealing with our cities and race and everything that Pat Moynihan has to say I listen to with great interest.

Mr. J. SPIVAK. Senator Talmadge, in response to an earlier question, you said the job of ending segregation in the South and in the North is over, yet the most recent statistics from the Federal Government for the 1968 school year indicate that over eighty per cent of the Negro school children in the south will go to all-Negro—predominantly Negro—schools.

Is that enough to say that the job is over at this point?

Senator TALMADGE. It is true all over the United States. The most segregated school system in America here is in Washington, D.C., where it is less than one percent.

In Los Angeles, California, 60.7 percent of all schools are racially segregated. Chicago, Illinois, 64.3 percent. Gary, Indiana, 55.6. Baltimore, Maryland, 53.9. Cleveland, Ohio, 63.9. Dayton, Ohio, 50.7. Philadelphia, Pennsylvania, 31.3. Milwaukee, Wisconsin, 50.3.

Mr. J. SPIVAK. Do those figures indicate the job is completed though in this country of ending segregation?

Senator TALMADGE. Well, I don't know how you can ever get a mathematically perfect ratio in your school system. I don't think you can, any more than you can get a mathematically perfect ratio in jobs, housing patterns, living conditions, cocktail parties, social functions. I don't think it is feasible.

What the 14th Amendment prohibits is discrimination, and once you outlaw discrimination, then the citizens generally can work out their arrangements to suit themselves and I think they will, but I think it would be wrong to send out the Army or the National Guard or the Police Department to reassign students in living areas and school conditions according to some mathematical ratio.

Mr. L. SPIVAK. Gentlemen, we have only four minutes.

Mr. JOHNSON. Senator Mondale, President Nixon pronounced his theme of bringing this country together and it is obvious, even from what we have been hearing on this program, we are not together racially in this country yet. What do you think the President should do that he hasn't done?

Senator MONDALE. Well, first of all I think the President should reaffirm this nation's cherished objective of an integrated society and of support of the 14th Amendment. His record in the field of human rights I think has been one of political expediency, which has sacrificed the cause of human rights.

We have seen the head of the Department enforcing civil rights fired for only enforcing the law. We have now had two nominees to

the Supreme Court who are distinguished by their disinterest in human rights. The President is trying to gut the Voting Rights Act. In a series of other efforts it is quite clear that he wants to call a retreat, if not abandon our effort to achieve a society truly committed to human rights. I think it is a tragedy. I think he is tearing us apart, and to add to that, Mr. Agnew, who seems to be able to think of somebody new every night to attack, I think he is doing great damage to this country.

Mr. NESSEN. Senator Ribicoff, let me ask you the same question I asked Senator Mondale. These figures that Senator Talmadge read, and the flight of the whites to the suburbs, doesn't that mean that most white parents all over the country don't want their children to go to school with blacks?

Senator RIBICOFF. That is correct. The pattern in this country is, when the blacks move in, the white move out.

Mr. NESSEN. Can't government do anything about that?

Senator RIBICOFF. No, the government can't do anything, but the government can assist in opening up the suburbs where the jobs are and where the housing, and assist in jobs and housing to allow the blacks to come into the suburbs in proportion of what they are in the population.

Mr. SUTTON. Senator Talmadge, in view of the Senate's action yesterday on bussing, it appears now that some bussing is going to be inevitable. Now here with the South's opposition to bussing, are there other workable means of desegregation you think the South should use?

Senator TALMADGE. I would like to call your attention first to the Civil Rights Act of 1964, two sections, 401(b) and 407(a), that specifically prohibit bussing and assignment to achieve racial balance.

Mr. SUTTON. That is on de facto but not on de jure, Senator.

Senator TALMADGE. We have no such thing as de jure segregation now. We haven't had since 1954. The Supreme Court decision and the Act of Congress in 1964.

Mr. L. SPIVAK. Senator Talmadge, do you think the South could solve its school problem if left alone by the federal government?

Senator TALMADGE. Well, I think in the final analysis all citizens are going to have to solve their problems on the local level. You can outlaw and you can prohibit discrimination, and we have done that. And I think that is as far as you can go without getting into police state tactics, and have an artificial ratio of some kind—

Mr. L. SPIVAK. Senator, do you think you could solve your school problem if left alone?

Senator TALMADGE. I think we are making great progress in that direction at the present time. We are having difficulty with many acts of our federal government. Here is a letter from a woman in La Grange, Georgia. She has six children from seven to 15. They have assigned them to five different schools. That won't solve any school problem.

Mr. J. SPIVAK. Senator Mondale, in your judgment what is the single most important step the Administration could take in the field of civil rights at this juncture?

Senator MONDALE. Well, first of all it seems to me they should start nominating judges to the Supreme Court who are committed to human rights. If the court backs off, the enforcement of human rights laws of this country—and they have often saved us from ourselves—then I think the cause of human rights could easily be lost.

Secondly, it seems to me they must, much more stronger than they have, support a strong Voting Rights Act, a strong series of appropriations and other efforts to bring quality education to the poor, quality housing, quality nutrition and the rest, to the poor of this country.

Mr. L. SPIVAK. I am sorry to interrupt, but our time is up. Thank you, gentlemen, for being with us today on "Meet the Press."

THE RECORD OF THE SENATE FOR 1970

Mr. BYRD of West Virginia. Mr. President, the Senate convened on January 19, 1970, commencing the second session of the 91st Congress.

Through February 28, 1970, the Senate was in session 29 days, including two Saturday sessions, and conducted business as well on Washington's Birthday.

During this period the Senate was doing business for 183 hours, 27 minutes.

During this period the Senate has had 72 record votes on legislation; by comparison it was September 12, 1969, when the 72d record vote was obtained last year.

During this period—that is, thus far during the second session of the 91st Congress—the Senate has passed a total of 88 measures including the following major legislative items:

Controlled Dangerous Substances Act.
Organized Crime Control Act.
Dairy products donation.
Egg Products Inspection Act.
Tomato promotion through paid advertising.

Continuing appropriations through February 28, 1970.

Foreign aid appropriations, 1970.
Labor-HEW appropriations, 1970, conference report.

Savings deposit program for certain uniform services members.
Credit unions—Independent agency status.

Federal National Mortgage Association.
Air pollution interstate compact between Ohio and West Virginia.

Newspaper Preservation Act.
Railroad retirement.
Prevent discriminatory State taxation of interstate carriers.

Accessibility of public facilities to physically handicapped.
Urban Mass Transportation Assistance Act.

Foreign service retirement system adjustments.

Legislation to implement the Convention on recognition and enforcement of Foreign Arbitral Awards.

American prisoners of war in Southeast Asia.

Elementary and Secondary Education Amendments.

Temporary emergency assistance to provide nutritious meals to needy children.

Executive Protective Service.
School lunch and Child Nutrition Act Amendments.

Conference report on Medical Libraries Assistance Extension Act.

Conference report on health services for domestic agricultural workers.

Airport and Airways Development Act.

Conference report on Community Mental Health Centers Amendments.

Conference report on public health training.

Intellectual and Industrial Property Conventions.

Labor-HEW appropriations, 1970.

Mr. President, this is a remarkable record, and I think it is indicative of a bipartisan effort on both sides of the aisle to get on with the people's business. I have served in the Senate for 12 years, and I do not recall a year in which the Senate has conducted as much business, proceeded with as many rollcalls, and accomplished as much good as it has in the first two months of the present session. I think this record reflects indeed highly upon the majority leader, the minority leader, the chairman and members of committees and members of both parties who are working together in this body; and it augurs well for the public good. The Senate has been diligent in its business.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

VOTING RIGHTS ACT AMENDMENTS OF 1969

The Senate continued with the consideration of the bill (H.R. 4249) to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices.

Mr. BYRD of West Virginia. For the information of the Senate, what is the pending question, Mr. President?

The PRESIDING OFFICER. The pending question is on the amendment (No. 519) of the Senator from Pennsylvania (Mr. SCOTT) to H.R. 4249.

Mr. BYRD of West Virginia. I thank the distinguished presiding officer.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, by way of recapitulation of earlier orders, when the Senate completes its business today it will adjourn until 11:30 tomorrow morning. Following the prayer and the disposition of the reading of the Journal tomorrow, there will be a period wherein the able Senator from Arkansas (Mr. McCLELLAN) will be recognized for not to exceed 30 minutes, following which the able Senator from Missouri (Mr. EAGLETON) will be recognized for not to exceed 15 minutes, following which a period for transaction of morning business will ensue, with statements limited to 3 minutes, at the close of which the unfinished business will be laid before the Senate, at which time paragraph 3, on germaneness of rule VIII of the Standing Rules of the Senate, will become operational for the 3 hours subsequent thereto.

DEATH OF REPRESENTATIVE JAMES B. UTT

Mr. MURPHY. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Resolution 859.

The PRESIDING OFFICER laid before the Senate a resolution (H. Res. 859) which was read as follows:

H. RES. 859

Resolved, That the House has heard with profound sorrow of the death of the Honorable James B. Utt, a Representative from the State of California.

Resolved, That a committee of forty-three Members of the House, with such Members of the Senate as may be joined, be appointed to attend the funeral.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect the House do now adjourn.

Mr. MURPHY. Mr. President, I offer a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution offered by the Senator from California will be read.

The resolution (S. Res. 362) was read, considered by unanimous consent, and unanimously agreed to, as follows:

S. RES. 362

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. James B. Utt, late a Representative from the State of California.

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That, as a further mark of respect to the memory of the deceased, the Senate do now adjourn.

The PRESIDING OFFICER. Under the second resolving clause, the Chair appoints the two Senators from California (Mr. MURPHY and Mr. CRANSTON) as members of the committee to attend the funeral.

Mr. MURPHY. I thank the Chair.

ADJOURNMENT TO 11:30 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, pursuant to the provisions of Senate Resolution 362, as a further mark of respect to the memory of the deceased Hon. JAMES B. UTT, late a Representative from the State of California, and in accordance with the previous order, that the Senate stand in adjournment until 11:30 a.m. tomorrow.

The motion was agreed to; and (at 5:50 p.m.) the Senate adjourned until tomorrow, March 3, 1970, at 11:30 a.m.