The House met at 12 o'clock noon. The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Teach me Thy way, O Lord, that I may walk in Thy truth.—Psalms 86: 11.

O God, our help in ages past and our hope for years to come, we pause in Thy presence seeking the guidance of Thy Spirit as we face these days with decisions to be made, work to be done, burdens to be carried, and life to be lived as best we can.

Keep Your banner floating o'er us as we walk in the way of those who do justly, love mercy, and walk humbly with Thee. Fashion our desires, our duties, and our deeds in accordance with Thy will that we may labor for a better world filled with better people for the betterment of all.

In Thy holy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar day. The Clerk will call the eligible bill on the Consent Calendar.

ENDORsing THE WORLD FOOD CONFERENCE OF 1976 IN Ames, Iowa


The SPEAKER. Is there objection to the present consideration of the concurrent resolution?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if we could have an explanation as to why a resolution of this character is being considered on the Consent Calendar rather than being brought up under suspension of the rules or under a rule allowing debate. It does have to do with a policy matter and an international conference to be held on that matter. Ordinarily, these things are not handled under Consent Calendar procedure.

Mr. Speaker, is there some explanation of why this is not handled in a manner consistent with other resolutions of this nature?

some member of the committee can give us?

Mr. HARKIN. Mr. Speaker, if the gentleman will yield, basically the Senate has already passed this concurrent resolution, and the thing is that we are scheduling this for next summer at Iowa State University at Ames, because things have to be done, procedures have to be laid out, provisions have to be made.

Mr. Speaker, I do not think the resolution is at all controversial. I am sure it has the support of everybody in the House. There are no money outlays for this. It will have no impact on inflation. We will be simply taking the lead for having a World Food Conference at Iowa State University at Ames next summer during the year of our Bicentennial.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, I would just say to the gentleman that this resolution, which has been reported by the Committee on International Relations, certainly has some impact on the Committee on Agriculture and its interests, since it does state as a policy of the Congress that we endorse the World Food Conference.

We really do not know what is going to come out of that Conference. The holding of the Conference, I suppose, is endorsable, but usually these policy matters are not handled under the Consent Calendar. At the very least, they are handled by a rule being granted from the appropriate committee.

Mr. Speaker, I wonder if we might not hold this off until an appropriate time for fuller consideration.

Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON ENVIRONMENT AND THE ATMOSPHERE TO SIT ON WEDNESDAY, JUNE 4, 1975

Mr. BROWN of California. Mr. Speaker. I ask unanimous consent that the Subcommitte on Environment and the Atmosphere of the Committee on Science and Technology may sit on the afternoon of Wednesday, June 4, 1975, while the House is in session.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.
unfortunate since it was intentionally misleading.

HEEL-DRAgGING ON ENERGY LEGISLATION

(Mr. CARTER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. CARTER. Mr. Speaker, I did not mean to do it, but I went through New York when I came to the well, but as a member of the Committee on Interstate and Foreign Commerce, I must say that really the committee has not met regularly, that is, the full committee, on the legislation which he mentioned.

I feel that that committee has done some work, but it has not passed out this legislation; and I must say, in all fairness, that a mountain has labored and for helping the unemployed.

I inadvertently recorded as voting "no" on final passage of H.R. 6960, the Emergency Special Unemployment Assistance Extension Act of 1975, when I intended to vote "aye."

Throughout my 11 years in Congress I have always supported unemployment compensation legislation and other measures to help our unemployed citizens, and I shall continue to do so. I want to emphasize that I favored passage of H.R. 6960, but I did stress that this mixup should not be misconstrued as a departure from my very strong support for helping the unemployed.

IN PRAISE OF TURKEY'S AND GREECE'S RESORT TO INTERNATIONAL COURT OF LAW

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FENWICK. Mr. Speaker and Members of the House, I hope that we will not let this moment pass without comment, seeing that two great nations, Turkey and Greece, have agreed to submit their differences of opinion to the International Court in the Hague.

I think that for all of us who look forward to a world in which the courts will be the first thought in a dispute rather than armed might, this is a great moment. It should not pass without some comment in this House. Two civilized nations, in a highly civilized way, have submitted their differences to an international court of law. We should all take note. I hope the nations of the world will take note. This is a forward step in the history of mankind, and it is greatly to be admired and commended.

HEEL-DRAgGING ON ENERGY LEGISLATION

(Mr. GOLDWATER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOLDWATER. Mr. Speaker, the Congress, the Committee on Ways and Means, and its chairman have worked long and hard to develop a comprehensive energy policy which will be recognized, but not necessarily applauded, for the final judgment must be made on the end result, the final product, and its effect. Unfortunately, as of yet, at this full, the result of this work is not yet available.

The President's criticisms of the Congress on May 27, I must reflect, are painfully accurate.

The Congress has done little since the President made his proposals 5 months ago. We still have not passed any energy legislation.

It is refreshing to hear the truth, even as painful as it may be, and the President should be commended for pointing this out to the American people.

Through his forceful leadership the Congress will take note. This is a forward step in the energy problem that we all face.

We in the Congress should stop criticizing the truth, and go about our business of developing an energy plan.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:


Hon. Carl Albert, The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted on May 22, 1975, the Clerk has received this date the following messages from the Secretary of the Senate:

That the Senate passed H.R. 7138, An Act to continue the special supplemental food program for women, infants, and children through September 30, 1976; and

That the Senate agrees to the Report of the Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill H.R. 6696, "An Act making supplemental appropriations for the fiscal year ending September 30, 1975, and for other purposes." That the Senate agrees to the amendments of the House of Representatives to the amendments of the Senate numbered 20, 40, 43, 45, 46, 47, 48, 59, 63, 105, 106, 108, and 171 to the above-entitled bill; That the Senate recede from its amendment numbered 83 to the above-entitled bill; and That the Senate further insist on its amendment numbered 107, disagreed to by the House, to the above-entitled bill.

With kind regards, I am,

Sincerely,

W. PAT JENNINGS, Clerk, U.S. House of Representatives.

SIXTH AND FINAL REPORT IN ACCORDANCE WITH SECTION 812(D) OF THE DEPARTMENT OF DEFENSE APPROPRIATION AUTHORIZATION ACT, 1974—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94-165)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Armed Services and ordered to be printed:

To the Congress of the United States:

In accordance with Section 812(d) of the Department of Defense Appropriation Authorization Act, 1974 (Public Law 93-155), I am pleased to submit to the Congress the sixth and final report on our progress toward offsetting the fiscal year 1974 balance of payments deficit resulting from the deployment of U.S. forces in NATO Europe. Section 812 (the Jackson-Nunn Amendment) states that if our European NATO Allies fail to offset certain payments, the U.S. forces in Europe must be reduced by the percentage of offset not provided. I am pleased to report that our Allies have fully offset the offset required by the Amendment. The troop reduction provision will not have to be implemented.

The U.S. NATO-related balance of payments expenditures during fiscal year 1974 totaled $1.997 billion. We sought to
June 2, 1975

CONGRESSIONAL RECORD—HOUSE

cover these expenditures in two ways. First, we negotiated with the Federal Republic of Germany (FRG) an Offset Agreement which had a total value of $2.21 billion over the 1974–75 time period. The fiscal year 1974 portion of the sum came to $1.152 billion. Second, our other NATO Allies have placed substantial military procurement in the U.S. They have been able to identify $1.016 billion in such procurement, of which $917 million can at this time be applied against fiscal year 1974 expenditures. The NATO Allies and the NATO Economic Directorate deserve our special recognition for their cooperation in establishing a liaison mechanism for identifying these purchases. Appendix A provides an accounting of our compliance with the provisions of the Amendment.

The Jackson-Nunn Amendment also called upon our Allies to assist the U.S. in meeting some of the added budgetary costs we have been maintaining our forces in Europe rather than in the continental United States. The major form of this budgetary support is contained in the 1974 Medicare Offset Agreement. The agreement includes approximately $224 million to rehabilitate badly deteriorated barracks and other troop facilities used by American military personnel in Europe. The FRG also agreed to absorb about $8 million of real estate taxes and landing fees directly related to U.S. forces in Germany. Finally, very considerable budgetary relief is implicit in the decisions to purchase DM 2,250 million in special U.S. Treasury securities at a concessional interest rate of 2.5 percent. The interest rate which Germany could have obtained through investment of these funds in marketable U.S. Treasury securities would, of course, have been much higher. The purchase of securities made by the FRG pursuant to this agreement would have cost the FRG more than it was worth at times when the market was paying just under eight percent interest. As a consequence, the FRG will have foregone approximately $434 million in interest over the life of these securities. This would represent a budgetary gain to the U.S.

A final provision of the Amendment requires that we seek to reduce the amount paid by the U.S. to support NATO’s Infrastructure Program. NATO recently agreed to a new five-year program (CY 1975–79) totaling $1.35 billion. The Allies have agreed to reduce the U.S. percentage from the current official level of 29.67 percent to 27.33 percent. The new program also includes a special category of projects totaling $98 million which benefit only American forces and which would normally have been funded in the U.S. budget. When this special category is considered, the effective U.S. share is approximately 21 percent. Likewise, since some funding for the Common European Pipeline deficit has been reduced from 36 percent to 25 percent.

The Amendment specifies that 22 1/2 months (July 1, 1973–May 16, 1975) of Allied balance of payments transactions can be applied against the FY 1974 deficit. The balance of payments data we have used have been based on only the first 12 months of this period. We do not yet have complete data on Allied procurement expenditures during the last 10 1/2 months of the statutory period. However, assuming that Allied expenditures in Foreign Military Sales (FMS) and Foreign Military Assistance (FMA) are about the same levels as in FY 1974, there would be available an additional $1.3 billion to offset our FY 1974 expenditures.

It should be noted that the Allied financial transactions reported here do not represent the total financial burden incurred by the Allies in support of U.S. forces in Europe. The use in Europe of our troop-related operation and maintenance costs for facilities, building and repairing roads, and other payments which have a total value of several hundred million dollars a year.

A good economic argument can be made that some of our balance of payments expenditures would have occurred whether or not our troops were in Europe, and hence should not have been charged against the NATO balance of payments account. For example, the Department of Defense purchased approximately 250,000 tons of petroleum, oil, and lubricants (POL) in Europe during FY 1974, mostly for our Sixth Fleet operations. The great majority of these products were purchased from the Middle East. However, if the fleet had been brought home, its shift to U.S. POL resources would have forced other U.S. consumers to purchase their POL requirements from abroad. Thus, the impact on our balance of payments expenditures would have remained unchanged.

We should also recognize that, even if our troops were returned to the continental U.S., there would still be personnel-related expenditures for European goods and services. These personnel would continue to purchase some European goods. Also, we should not overlook the fact that some of our military-related balance of payments expenditures in Europe generate Allied or third nation purchases of U.S.—both military and commercial. Finally, we must consider that more than $300 million of the U.S. defense expenditure in Europe merely reflect the effect of dollar depreciation. This depreciation was a contributing factor to the substantial improvement in the U.S. trade balance, but it has made relatively more expensive the goods and services purchased by our military forces in Europe.

Gerald R. Ford
The White House, May 27, 1975

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C., May 27, 1975

Hon. Carl Albert,
The Speaker, House of Representatives.

Dear Mr. Speaker: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk’s Office at 12:30 p.m. on Tuesday, May 27, 1975, and said to contain a message from the President wherein he transmits the Annual Report of the Administration on Aging for the fiscal year 1974.

With kind regards, I am,
Sincerely,

Pat Jennings,
Clerk, House of Representatives.

By Benjamin J. Guthrie.


The SPEAKER laid before the House the following message from the President of the United States:

Section 208 of the 1973 Amendments to the Older Americans Act (Public Law 89-73) provides that the Commissioner on Aging shall prepare and submit to the President for transmittal to the Congress a full and complete report on the activities carried out under this Act, not later than one hundred and twenty days after the close of each fiscal year.

Secretary Weinberger has forwarded the Annual Report of the Administration on Aging for the fiscal year 1974 to me, and I am pleased to transmit this document to the Congress.

Gerald R. Ford
The White House, May 27, 1975

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C., May 28, 1975

Hon. Carl Albert,
The Speaker, House of Representatives.

Dear Mr. Speaker: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk’s Office at 4:55 P.M. on Thursday, May 28, 1975, and said to contain a veto message from the President on H.R. 5357, An Act to authorize appropriations to the Secretary of Commerce for the promotion of tourist travel. With kind regards, I am
Sincerely,

Pat Jennings,
Clerk, House of Representatives.

By W. Raymond Colley,
Deputy Clerk.

AUTHORIZING APPROPRIATIONS TO THE SECRETARY OF COMMERCE FOR THE PROMOTION OF TOURIST TRAVEL—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94-168)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith, without my approval, H.R. 5357, which would au-
thorise appropriations totalling $86-
125,000 to the Secretary of Commerce for
the promotion of tourist travel.
This bill would reinstate in the De-
partment of Commerce a domestic tour-
ism program needed by Americans to
tavel within the United States. It also
would authorize appropriations totaling
$90 million for the period July 1, 1976
through September 30, 1979, for con-
uinuation and expansion of the current
program of the United States Travel
Service to promote and facilitate foreign
tourism in the United States.
My Administration proposed an ex-
tension of the existing tourism program
through fiscal year 1979 at an annual
authorization level of $15 million to en-
courage foreign visitors to the United
States. It opposed the reinstatement of
a domestic tourism program, which
would be unnecessary.
The promotion and management of
domestic tourism should remain the re-
ponsibility of the private sector, espe-
cially the hotel and transportation
industries, and of state and local
governments. Each of the fifty
States has its own tourist promotion agency. I
find no justification for the Federal
Government taking on this role.
Moreover, the amounts authorized in
the bill for the Travel Service’s existing
program are excessive, almost dou-
bling the adequate amounts proposed by
my Administration for the promotion of
foreign travel to this country.
I find it necessary, therefore, to with-
hold my approval from a bill which would
create an unnecessary new Federal pro-
gram and unduly enlarge an existing
program.

GERALD R. FORD


The SPEAKER. The objections of the
President will be spread at large upon
the Journal, and the message and bill will
be printed as a House document.
The question is, Will the House, on
reconsideration, pass the bill, the ob-
jections of the President to the contrary
notwithstanding?

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I move that
further consideration of the veto mes-
sage from the President on the bill H.R.
4481 be postponed until Wednesday,
June 4, 1975.

The SPEAKER. The question is on
the motion offered by the gentleman from Texas (Mr. MAHON).
The motion was agreed to.
A motion to reconsider was laid on
the table.

CALL OF THE HOUSE

Mr. MONTGOMERY. Mr. Speaker, I make the
point of order that a quorum is not present.
Mr. McFALL. Mr. Speaker, I move a
call of the House. A call of the House was
ordered.
The call was taken by electronic de-
vice, and the following Members failed to
respond:

[Roll No. 247]

Abdner
Alexander
Ambro
Andrews, N.C.
Annunzio
Aspin
Balatis
Barrett
Baucus
Beard, Tenn.
Bell
Biaggi
Bingham
Rogers
Boland
Boren
Breaux
Breaknick
Burton
Burton, Phillip
Chabot
Chaffer
Don H.
Donnelly
Cochran
Collins, Ill.
Connie
Conyers
Coughlin
Cousins, N.Y.
Delaney
Deutsch
Dodd
du Pont
Edhardt
Ellberg
Eisenberg
Esk
Ehleman
Fish
Fishman
Foley
Ford, Tenn.
Frey
Fulton
Gooding
Gradison
Green
Gunther
Hamer
Schmidt
Hannaford
Harrington
Harri
Hébert
Henderson
Henderson
Holland
Hoar
Holmes
Howard
Howard
Howe
Inglis
Jennings
Johnson
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Kazen
Kearney
Kentucky
Key
Lant
S. Pat Jennings,
Clerk, House of Representatives.

By BENJAMIN J. GUTHRIE.

EMERGENCY EMPLOYMENT AP-
PROPRIATION ACT—VETO MESS-
AGE FROM THE PRESIDENT OF
THE UNITED STATES (H. DOC.
NO. 94-169)

The SPEAKER laid before the House
the following veto message from the
President of the United States:

To the House of Representatives:

I am, without my approval, H.R.
4481, the Emergency Employment

Earlier this year, I asked the Congress
for legislation to deal with the Nation’s
most immediate employment problems
through an extension of public service
jobs and a program of summer youth
employment.
The Congress has taken this simple,
straightforward and specific proposal
and turned it into a bill containing a
host of provisions of questionable value.
This bill, as presented to me, is not
an effective response to the unemploy-
ment problem. It would exacerbate both
budgetary and economic pressures, and
its chief impact would be felt long after
our current unemployment problems are
expected to be abated.
The bill authorizes spending of $3.3
billion above my budget requests. Almost
half of this added spending would occur
in fiscal 1976 and an appreciable amount
of spending would continue in calendar
year 1977. Economic recovery is expected
to be well underway by the end of 1975,
and the accelerative influences of this
bill would come much too late to give
impetus to this recovery. Instead, those
influences would run the risk of contrib-
uting to a new round of inflation later
on.
In my address to the Nation on
March 29, announcing my decision to
sign the Tax Reduction Act, I stressed
the need to keep the 1976 deficit below
$60 billion. This bill is one of many being
considered by the Congress that, com-
bined, would increase the deficit to $100
billion or more. Already, Congressional
actions and inactions will have added $7.3
billion to the 1976 deficit and $4.4 billion
in the long run. H.R. 4481 provides for too much
student jobs and summer employment.
Further stimulus would hurt more
than it would help our economy in the
long run. H.R. 4481 provides for too much
stimulus, too late, and I must therefore
vote the bill.

I urge the Congress to pass such a bill as
quickly as possible.

GERALD R. FORD.


The SPEAKER. The objections of the
President will be spread at large upon
the Journal, and the message and bill will
be printed as a House document.
The question is, Will the House, on
reconsideration, pass the bill, the ob-
jections of the President to the contrary
notwithstanding?

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I move that
further consideration of the veto mes-
sage from the President on the bill H.R.
4481 be postponed until Wednesday,
June 4, 1975.

The SPEAKER. The question is on
the motion offered by the gentleman from Texas (Mr. MAHON).
The motion was agreed to.
A motion to reconsider was laid on
the table.

CALL OF THE HOUSE

Mr. MONTGOMERY. Mr. Speaker, I make the
point of order that a quorum is not present.
Mr. McFALL. Mr. Speaker, I move a
call of the House. A call of the House was
ordered.
The call was taken by electronic de-
vice, and the following Members failed to
respond:

[Roll No. 247]
Mr. YOUNG of Georgia. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Tennessee (Mr. Quillen). Pending that, I yield myself such time as I may consume.

Mr. Speaker, this House Resolution 469 provides for an open rule with 3 hours of general debate, which shall rise and fall with the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Georgia (Mr. Young) is recognized for 1 hour.

Mr. YOUNG of Georgia. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Tennessee (Mr. Quillen). Pending that, I yield myself such time as I may consume.

Mr. Speaker, this House Resolution 469 provides for an open rule with 3 hours of general debate, to be followed by reading for amendment under the 5-minute rule. This bill is to be read by titles.

Mr. Speaker, Members of the House may not remember that 10 years ago, when this legislation was first enacted, the Nation was in a series of great turmoil. This was the time of the violence surrounding the attempts on the part of black citizens in the Southern part of the United States to register to vote. It was at that time that many Americans lost their lives in an attempt to gain the right to vote. That was the time of Selma. That was the time of people being blown out of their churches simply for attempting to hold voter-registration meetings. That was a dark time in the history of the United States, but it was a time to which the Congress responded.

Mr. Speaker, since the passage of the Voting Rights Act of 1965, the Constitution of the United States has been sustained in these States. We have had remarkable success with the registration of voters. More than 1 million and a half blacks in the South have been registered, including 1.1 million in the States covered by the Jurisdiction of the act.

In 1965, there were 72 black elected officials in the 11 Deep South States (Voter Education Project). Today, there are 1,307—including 1,114 in the seven States specially covered by the Voting Rights Act (VEP).

However, blacks hold less than 2 percent of the 79,000 public offices in the South.

In the 101 black-majority counties, blacks hold a majority of seats in the county governments of only 6 counties. (VEP)

There are 362 majority-black towns and cities in the South which have not yet elected even 1 black public official. (VEP)

In the 7 covered States, 27 percent of the population is black, but only 1 out of 57 Congressmen from the States is black; of 1,174 State legislators in those States, only 68 are black. No blacks in the States hold statewide office. (VEP)

The number of black elected officials in the South has risen as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Black</th>
</tr>
</thead>
<tbody>
<tr>
<td>1965</td>
<td>72</td>
</tr>
<tr>
<td>1966</td>
<td>159</td>
</tr>
<tr>
<td>1967</td>
<td>248</td>
</tr>
<tr>
<td>1969</td>
<td>388</td>
</tr>
<tr>
<td>1970</td>
<td>568</td>
</tr>
<tr>
<td>1971</td>
<td>711</td>
</tr>
<tr>
<td>1972</td>
<td>873</td>
</tr>
<tr>
<td>1973</td>
<td>1,144</td>
</tr>
<tr>
<td>1974</td>
<td>1,507</td>
</tr>
<tr>
<td>1975</td>
<td>1,559</td>
</tr>
</tbody>
</table>

Source: Voter Education Project.

Georgia: 23 of Georgia's 159 counties have a black majority. As of 1975, there were five black county commissioners in these counties. In 22 other counties which are between 40 and 50 percent black, there are no black commissioners. (CRC)

In city government, Georgia has 2 black mayors and 84 councilmen, aldermen, and commissioners. (VEP)

In law enforcement, black elected officials in Georgia include one judge and five justices of the peace.

There are 53 black elected school board members.

Of the 236 State legislators in Georgia, 22-9.3 percent—are black. The State's population is 25.9 percent black. (CRC)

Voting age population (millions) | Reported registered | Reported voted | (percent)
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Mexican</td>
<td>3.2</td>
<td>46.0</td>
</tr>
<tr>
<td>Puerto Rican</td>
<td>0.9</td>
<td>52.7</td>
</tr>
<tr>
<td>Other Spanish</td>
<td>1.6</td>
<td>36.8</td>
</tr>
</tbody>
</table>

VOTER REGISTRATION

Since 1965, over 1.5 million blacks in the South as a whole have become registered voters—about 1.1 million in the covered States. The percentage of eligible blacks registered in the seven covered States rose from about 29 percent in 1964 to 56 percent in 1972. However, it is estimated that as many as 2.5 million eligible blacks in the South are still not registered, and that black registration is about 15 points below the percentage of white registration. The disparity is even greater in many rural areas. (VEP and U.S. Civil Rights Commission)

VOTER TURNOUT

Black voter turnout in the South has increased in terms of percentages and numbers of registered voters since 1965. Although Census Bureau statistics on turn out are not entirely reliable—the statistics are based on surveys in which some people, both black and white, say they voted but did not actually vote—it is apparent that black voter turnout in the South is lower, percentagewise, than white turnout.

According to a U.S. Census survey of the voting age population, 54.8 percent of blacks in the South reported that they voted in the 1972 election, compared to 57 percent of whites.

VOTER REGISTRATION AND TURNOUT (U.S. CENSUS SURVEY OF VOTING AGE POPULATION ON PARTICIPATION IN 1972 ELECTIONS)

<table>
<thead>
<tr>
<th>Year</th>
<th>Black</th>
<th>White</th>
</tr>
</thead>
<tbody>
<tr>
<td>1972</td>
<td>64.0</td>
<td>69.6</td>
</tr>
<tr>
<td>1970</td>
<td>43.9</td>
<td>50.0</td>
</tr>
</tbody>
</table>

SOME BARRIERS TO VOTING
Obstacles to bivalent candidates.

We have seen the House of Representatives and to the State houses of this Nation candidates who are elected by virtue of being able to forge a coalition of good will rather than a coalition of bigotry and snobbery.

Mr. Speaker, I think the success that the Congress afforded the Southern States by the passage of this act 10 years ago is a success that needs continuation, for reasons, despite the success may be, there is a continued need for the presence of this act.

The present extension would be for 10 years, and it would provide a kind of continued preclearance of voting changes by the Attorney General's office, which has afforded such dramatic change for the United States.

Enforcement of section 5 preclearance got off to a slow start, partly because pre-clearance regulations were not put into effect by the Justice Department until 1971.

Since 1965, specially covered jurisdictions have submitted 4,476 voting changes for preclearance; only 162 were objected to by the Attorney General.

Opponents of the Voting Rights Act—especially state and local officials who are required by the law to submit voting changes—have claimed that preclearance is burdensome, time-consuming, and expensive. They assert that most voting changes are “minor” or “technical.” But the pre-clearance procedure clearly is more efficient than case-by-case lawsuits. The Attorney General may send Federal observers to any county consolidation plan provided for registration or the discovery of discriminatory effects of using examiners and numbered posts. It would have dilute black voting strength. A fairly drawn plan of single-member districts, the Justice Department said, would allow fair opportunity for the election of blacks.

New Orleans, La., 1974: The polling place for a 95 percent precinct would have required voters to travel an excessive distance outside the precinct. Several more convenient polling sites were available.

Alabama, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Virginia: Each of these seven specially covered Southern States has redistricted its State legislature since the 1970 census, and each plan was challenged and found discriminatory by the Justice Department or the courts.

Failure to submit or preclearance. One problem with the Voting Rights Act is that governmental officials have refused or failed to submit voting changes for preclearance, as required by law.

The CRC says the number of counties have never made any submissions under section 5, but no one seems to know how many.

It is known that in Georgia between 1964 and 1974, 16 counties, including all of the more than 40 percent black-Jenkins-made changes in the method of electing their commissioners, but did not submit the changes for preclearance. In each case, the CRC found, the new method “has features that are often discriminatory.”

By and large, none have attempted to obtain section 5 preclearance.

In Bessemer and Fairfield, Ala., in recent years, black voting strength was diluted. The county’s elections were conducted in several white areas—without preclearance.

These and other failures to seek preclearance suggest another argument for extending the Voting Rights Act—there is great vulnerability to other minority rights. For example, the location of a polling place in a private white club—see example from Jones County, Ga., below.

Here are some examples of voting changes which did not receive preclearance. (CRC)

Atlanta, Ga., 1972: Reapportionment of Fifth Congressional District so as to dilute black voting strength and remove potential black candidates from district.

Jones County, Ga., 1974: Removal of a polling place from a store in the central part of the precinct to the Lions Club Fairground Building on the outer fringe. The Lions Club does not have power to endorse a candidate, but does have a black membership. As an example, the location of a polling place in a private white club—see example from Jones County, Ga., below.

There are some reports that the threat of using examiners has a deterrent effect—that local registrars began to register black voters so that Federal examiners would be kept out.

USE OF FEDERAL OBSERVERS

Federal observers may be sent by the Attorney General into specially covered jurisdictions to act as poll watchers, observing whether eligible persons are allowed to vote and whether all ballots are accurately counted. The observers report on the conduct of the election, but have no role in the management of polling places.

Since 1966, about 6,500 observers have been sent to 61 counties in 5 of the 7 covered Southern States. In 1974, there were 430 observers assigned in Alabama, Georgia, Louisiana, and Mississippi.

Federal observers are still needed to counteract such practices as deleting names from precinct lists, failure to assist illiterate voters, locating polls in all-white facilities, and outright intimidation of minority voters.

The remarkable effect of this act is that it has had a preventive effect. It has, by virtue of its existence, assured and sustained our nation’s promise and given us democracy all over this Nation with a minimum of trouble.

Yet, Mr. Speaker, as we think about the presence of this act, and as we think about the advantages that we have had for black Americans and for the southern part of the United States in general, it would seem to me to be a great weakness on our part if we did not extend those provisions to include other minorities as well.

After all, Mr. Speaker, we have just completed a war which cost $500 billion, and which cost 55,000 American lives to insure the right to vote, the right to determine their own democracy for the people in South Vietnam, so it would seem to me that the dozen or more lives that were shed in 1965 that made possible this act should not be repeated by the Spanish-speaking Americans, or by the Asian Americans, or by the American Indians, but that Indians are suffering done by Americans in general so that we should be able to appreciate the fact that all men in these United States are endowed not by their education, by their color, by their wealth or religion, but that they are endowed by their Creator with certain unalienable rights, and one of those rights should certainly be the right to vote.

VOTING PROBLEMS OF LANGUAGE-MINORITY GROUPS

Registration: Problems include inadequate numbers of minority registration personnel, uncooperative registrars, and purging of registration rolls. Purging can be especially burdensome to language minorities in the many areas where purging notices are mailed out in English only. In Arizona, failure to print in a minority language suffers done by Americans in general so that we should be able to appreciate the fact that all men in these United States are endowed not by their education, by their color, by their wealth or religion, but that they are endowed by their Creator with certain unalienable rights, and one of those rights should certainly be the right to vote.

In 1974, research in Tucson on lists of challenged and purged voters in Pima County showed that a much higher rate
of Chicanos had been purged of all other voters. A sample of canceled voters showed voting machines were not used where they had been purged and did not know how to be reinstated. (CRC)

New York law also has strict purge provisions which have a severe effect on minorities. Here, Puerto Ricans can be purged for failure to vote in general elections, and many Puerto Ricans have voted only in the more important primaries. Also, many people do not receive their purge notification — which is in English.

Voting: Language minorities seldom control the election or appointment of local officials or occupy positions of influence. Problems at polling places include outright intimidation by officials, failure to locate voters’ names on precinct lists, location of polls where minority voters feel unwelcome or location at inconvenient places, underrepresentation of minorities as poll workers, unavailable or inadequate assistance to illiterate voters, lack of bilingual materials, and told them he expected their votes. When Anglos challenged the election of Mexican Americans, they subpoenaed 300 Mexican Americans in Pearsall, Tex., and 150 in Cotulla. Witnesses said the subpoenas had the effect of intimidating the Mexican Americans and convincing them to avoid politics and voting. Also in Pearsall, Tex., a witness testified that an Anglo candidate for city council who was a bank loan officer went to Mexican Americans who had loans with the bank and told them he expected their votes.

In Uvalde, Tex., some Chicanos are afraid that their welfare checks will be reduced because of their political activity.

Chicano elected officials. To illustrate the underrepresentation of Spanish-speaking people, in Texas, Mexican Americans comprise 18.4 percent of the population, but hold 2.6 percent of the elective positions. In New York, Spanish heritage citizens make up 7.4 percent of the population, but hold less than 0.1 percent of the elective positions.

Dilution of language-minority voting strength. This is a major problem which calls for protection under the preclearance provision of the Voting Rights Act. In Texas, Navajo citizens make up about three-fourths of the population. The three county supervisor districts are drawn so that all the Navajos are in one grossly overpopulated district.

In Bexar and Dallas Counties, Tex., State legislators were elected from multi-member districts, diluting or canceling the strength of blacks and Mexican-Americans. The Supreme Court has since upheld a ruling that this system was discriminatory. Throughout Texas, many cities and


color. The triggering provision should be changed.

In the North if 50 percent of an area votes, and the area contains a good number of minority members, then this act does not trigger. Those people do not have the same advantages, in my opinion, in the North as we have in the South. People are covering here in this legislation.

Why do we not make it all-embracing to all of our 50 States and make the triggering mechanism universal? If the act is continued as presented to us in the bill which will be discussed after this rule is adopted — take away local control of redistricting or even the annexation of a property in a city because of the requirements of the statute. I think when we give up States’ rights and we give up the rights of cities and counties, then we are taking away the heritage which our Founding Fathers gave us in our Constitution.

Mr. Speaker, I would, therefore, ask the Members to consider this measure carefully when it is debated on the floor of the House, because, as I said in the beginning, some 15 additional and separate views have been filed in the report. It could not be a unanimous decision of the people who composed the bill out. It is my understanding that the gentleman from California (Mr. Wargins) is going to offer a substitute which will give a new triggering provision, making it applicable in all of our 50 States. What is good for the goose is good for the gander, and what is good for the people of one State likewise should be good for the people of another State.

Mr. Speaker, I have no objection to the rule. I do want to repeat again that the membership of this great body should consider these additional views, should consider the benefit of all Americans having the right to vote and not limiting and not triggering it to areas of this country on a sectional or a regional basis. In California, I yield 5 minutes to the distinguished gentleman from California (Mr. Wargins).

Mr. Wiggins. I thank the gentleman from Tennessee for yielding to me. It is not my purpose to take 5 minutes to discuss the merits or demerits of the proposal which I shall offer at the appropriate time. I merely seek the attention of the gentleman from Georgia and the gentleman from Tennessee to discuss what occurred before the Committee on Rules. Before the Committee on Rules I suggested that that committee make in order as a substitute the proposal sponsored by myself. By an equally divided vote, I was informed that the motion to make it in order was defeated. Consequently, during the Committee on Rules, there never was any doubt about the germaneness of my substitute. I seek the gentleman from Georgia and the gentleman from Tennessee for the purpose of confirming that statement.

Mr. Young of Georgia. Mr. Speaker, will the gentleman yield?

Mr. Wiggins. I yield to the gentleman.

Mr. Young of Georgia. I thank the gentleman for yielding.

The gentleman is correct. There was never any question about the germane-
ness of the gentleman's substitute. It was only a question as to whether or not that should be specified under the rule, but since it is an open rule, the gentleman's substitute, it would seem to me—although I am not the Parliamentarian—would be quite in order.

Mr. WIGGINS. I thank the gentleman.

I will ask the gentleman from Tennessee if that is also his recollection.

Mr. QUIttLEN. Mr. Speaker, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Tennessee.

Mr. QUIttLEN. I thank the gentleman for yielding.

That is my recollection, and I will so state it. I feel that the gentleman has a sound basis for his contention, and his substitute should be in order.

Mr. WIGGINS. I thank the gentleman for yielding.

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

Mr. QUIttLEN. Mr. Speaker, I have no further remark, or time, Mr. Chairman.

Mr. YOUNG of Georgia. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the amendment.

The previous question was ordered. The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. EDWARDS of California. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6219) to amend the Voting Rights Act of 1965 to extend certain provisions for an additional 10 years, and in the course of such amendment to provide for the further extension of those provisions for another 10 years.

Mr. Speaker, I move the previous question on the amendment.

The resolution was agreed to.

In the Committee of the Whole

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 6219, with Mr. Boulware in the Chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from California (Mr. EDWARDS) and the gentleman from Virginia (Mr. BUTLER) will each be recognized for 1½ hours.

The Chair recognizes the gentleman from California.

Mr. EDWARDS of California. Mr. Chairman, I yield 7 minutes to the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. ROMERO).

Mr. ROMERO. Mr. Chairman, in 1965, I was serving in this body when President Lyndon Baines Johnson called a historic special session of Congress to express his deep concern over the tremendous difficulties which black citizens in certain areas of this country were experiencing when they attempted to register and vote. He made an urgent plea for legislation which would at long last put an end to the violence and unconstitutional barriers suffered by minorities seeking to participate in the electoral process. It was legislation that the Congress could ignore. At that time, worldwide attention had been drawn to the extreme brutality and suffering of blacks in areas such as Selma, Ala., because, in the case of that area, certain blacks who sought to exercise their right to vote had been killed and injured at the hands of local law enforcement officials. The day of that march is now known by many as bloody Sunday.

The Congress acted with dispatch by passing some 5 months after President Johnson's plea the Voting Rights Act of 1965. I am very proud to have been a Member of this body and the Committee on the Judiciary at the time when that momentous and important legislation was enacted. It has been termed by many to be the most effective civil rights legislation ever passed and justifiably so. The application of the Voting Rights Act's special remedies has led to drastic improvements in the condition of southern minorities. In jurisdictions first triggered for special coverage under the remedies, namely, jurisdictions in the South, the participation of minority voters has greatly increased in terms of registration, voting, and the actual holding of political office. We are at this time confronted with the important decision as to whether or not that special coverage and the special remedies which it entails ought to be allowed to expire for certain jurisdictions in August of this year. Unless we now act to extend the act's special provisions, that coverage will cease to exist for certain areas within the next 2 months.

H.R. 6219, a bill which favorably reported out of the Judiciary Committee by a vote of 27 to 7, does in fact extend the Voting Rights Act's special provisions for an additional 10 years. It was the committee's judgment that each of those provisions or remedies needs to remain operative for at least that additional period of time. For example, in reviewing the continued need for this legislation in jurisdictions where it is no longer necessary for re-election, we concluded that the act's Federal preclusion requirements, mandating Federal review of all voting changes to be implemented in covered jurisdictions, were still needed because of the recent increase in the number of Justice Department objections to potentially discriminatory changes. In other words, in recent years the Justice Department, under the preclusion provision, has halted by means of objections proposed changes in Alabama, Georgia, Louisiana, Mississippi, and North Carolina, Alabama, and Virginia, each of which will soon be ineligible for exemption from the act unless we act and act quickly. Those objections have been based on jurisdictional, discriminatory annexations, redistrictings, polling place changes, switches to at-large elections, and other devices which have been used to minimize minority political participation. The committee found, and I personally suggest to you, that it would simply be unthinkable to now remove the preclusion protections which have been prevented by the Justice Department as recently as 1974 and 1975.

Furthermore, it was especially this preclusion remedy that the committee concluded was needed to purchase an additional 10 years. Pursuant to section 5 of the Voting Rights Act, the Federal preclusion provision, covered jurisdictions must submit all redistricting plans and other changes to their implementing officials to the Justice Department. In view of the fact that at least one-third of the Justice Department's objections have been directed at such plans at all jurisdictions, and in light of the fact that the preclusion requirement remain in effect during the reapportionment and redistricting which will necessarily take place in the years after the 1980 decennial census. H.R. 6219 accomplishes that end by providing for a 10-year extension, making the preclusion provision operative at least through 1995.

In addition to Federal preclusion, other special remedies applicable to covered jurisdictions are the Attorney General's powers to certify the appointment of Federal examiners and Federal observers. In covered jurisdictions, where the Attorney General finds that they are needed, Federal examiners serve to list eligible voters and to register voters, and Federal observers serve to monitor the conduct of elections. The committee found that there was a continuing need for these remedies in those States and political subdivisions which will soon be eligible for exemption. Significant registration disparities between blacks and whites still exist in the States of Louisiana, 16 percent, and Alabama, over 20 percent, and Federal examiners and Federal observers can yet play a significant role in ensuring that large numbers of unregistered blacks are entered upon the rolls. Additionally, the Federal listing of eligible minority voters must continue to be available because of local registration barriers in covered jurisdictions. Such barriers were documented in the recent report of the U.S. Commission on Civil Rights. That report, "The Voting Rights Act: 10 Years After," revealed that in many of the covered jurisdictions, times and places of registration are so restrictive that blacks, frequently living in distant rural communities, are unable to register. Some whites in those areas are also reputed to be treated blacks with extreme discourtesy, so much so that blacks find the registration process under these circumstances at best embarrassing and humiliating.

In light of such factors, the committee concluded that the important remedy of Federal registrars should be continued. The committee concluded that in respect to the Federal observer remedy. The hearing record on this legislation reveals that many minority voters in the more rural areas continue to be located in all-white clubs and lodges where minority persons are otherwise not allowed to go, with such locations obviously representing extremely hostile and intimidating atmospheres for the nonwhite voter. Thus, the presence of Federal observers can
still serve to deter abuses and to prevent or diminish the intimidation frequently experienced by minority voters.

H.R. 6219, a bill which extends each of these remedies for an additional 10 years, must be passed by this body if the political rights of minority citizens are to continue to be safeguarded from future infringements.

H.R. 6219 also proposes to make permanent on a nationwide basis ban on literacy tests which Congress enacted in 1970. That nationwide test suspension expires in August of this year and this measure would thus make permanent these provisions, as well as constitutional, for that ban to be made permanent. It is well documented that, primarily because of disparate education opportunities, minority citizens in this country suffer from much higher rates of illiteracy than do nonminority citizens. In reaching its conclusion that literacy tests ought to be made permanent, the committee also took into account the long and tragic history of the discriminatory use of such tests to disenfranchise minority voters, as well as the extensive use of broadcast media to discourage and confuse acquiring knowledge on the political scene.

Having decided in favor of extending the Voting Rights Act's special provisions, the committee was then faced with another important and momentous decision: namely, whether or not the act's special coverage ought to be expanded in some manner to include by law those voting rights of language minority citizens. During subcommittee proceedings, members of language minority citizens offered testimony on incident after incident in uncovered jurisdictions where language barriers as well as other forms of discrimination served to impede political participation on the part of minority citizens with native languages other than English. Described were instances where the inability to speak English served to deter or otherwise frustrate the registration and voting efforts of bilingual voters. Those who speak only English and election materials printed only in the English language effectively exclude such citizens from the electoral process. At the present time, there were instances of discriminatory districting plans, discriminatory annexations, and acts of physical and economic intimidation among language minority citizens do in fact attempt to participate. The entire situation in these uncovered jurisdictions is tragically reminiscent of the earlier and, in some respects, current predations wrought by blacks in currently covered areas.

With the same commitment and dedication which led the Judiciary Committee in 1965 and its 1970 extension, the committee has now reported out to you for favorable action, provisions in H.R. 6219 which would meet the tremendous needs of language minority citizens in the same disparaging manner with which the Congress acted in 1965 and 1970, we must now adopt these expansion provisions.

Based on the subcommittee record as well as judicial proceedings the committee felt that each of the act's special remedies ought to also be applicable, first, where language minorities—defined as Alaskan Natives, Asian Americans, American Indians, and persons of Spanish heritage—reside in greatest concentrations; second, where there has been a noted increase in the most recent Presidential election; and, third, where there have been conducted elections only in the English language. Other language groups were not added for coverage purposes at this time merely because the committee had no evidence before it that such citizens experience severe voting barriers. In fact, nationwide votes in jurisdictions first begun in 1965 indicate that they have much higher participation rates than, for example, do persons of Spanish heritage. Moreover, it is primarily the four language minority groups set forth in the bill which have experienced discrimination in education, thereby leading to their continued illiteracy in the English language.

Thus, H.R. 6219 proposes to mandate, for a 10-year period, in newly covered jurisdictions such as Texas, Alaska, and various other counties throughout the country, bilingual elections, Federal preclearance, and Attorney General authorization to certify the need for examiners and observers. Such remedies are most appropriate under the circumstances; bilingual election voting problems elaborated upon in the record; a record which, incidentally, is quite extensive in that it includes 18 days of hearings. This expanded coverage is found in title II of H.R. 6219.

Additionally, H.R. 6219 provides for the bilingual elections remedy in jurisdictions where language minorities with high illiteracy rates reside in significant numbers. This remedy is provided for in title III of H.R. 6219.

While the committee's report on H.R. 6219 sets forth in considerable detail why it in fact believes that the expansion to these additional jurisdictions is both appropriate and constitutional, I believe it important to note that recently the Justice Department has directed a letter, dated May 16, 1975, to Senator Jon V. Tunney, indicating, that in its opinion, H.R. 6219 and its expansion to non-English speaking minorities, is constitutional. The letter states:

The evidence is sufficient to support a legislative determination of need and to support the means chosen for protecting the right to vote.

Both the extension as well as the expansion of the Voting Rights Act are constitutional exercises of congressional authority. However, as many upon whom we impose a legislative judgment as to whether or not these provisions should be voted up or down. I can only say that a no-vote on these provisions would be a tragedy, indeed. For the result would be a continued disenfranchised minority citizenry, and such a result would make a travesty of our so-called democratic system.

Mr. Chairman, at this time I would like to compliment the chairman of the subcommittee and the ranking minority member of that subcommittee, together with the full committee, for the work which they have been industriously and diligently over a period of time, and held 13 days of hearings at which were heard witnesses who presented testimony which is convincing proof of the need to expand coverage and the need to extend the Voting Rights Act to insure the rights of every individual, including the voting rights of all language to be able to vote in these United States.

Mr. EDWARDS of California. Mr. Chairman, I yield myself 1 minute.

I do not think that I need to go into great detail in relating how and why the Voting Rights Act came about. Most of us here can readily recall the disturbing picture which was then in certain areas of this country, not only were minority citizens denied the right to vote outright—but some were also killed and injured in their attempts to speak out against that exclusion. The Voting Rights Act of 1965 was passed to bring about swift administrative relief by finally admitting into political life those who were determined to exclude.

In passing the act, the 89th Congress proved to be a very optimistic body in that it designed the 1965 legislation to be applicable for a 5-year period. It was apparently hoped that, under the act, the tides of change would flow quickly and that the affected areas would readily open up their electoral processes to those who were formerly excluded. That their optimism was not well founded is now apparent. In 1970, just prior to the time that the act was to have expired, the Congress thoroughly assessed the situation during the previous 5 years and determined that it fell far short of bringing about the change that was yet needed. The special application of the act was therefore extended for another 10 years—until August 6, 1975. At this time, therefore, we again find ourselves in a posture of reassessment because, in 2 months, jurisdictions brought under the act in 1965 will begin to be eligible for automatic exemption.
cirmnination existing in jurisdictions which could conceivably be released from the act in less than 10 weeks. In a recent 55-page report, "The Voting Rights Act: 10 Years After," the U.S. Commission on Civil Rights poignantly documents that in the currently covered jurisdictions barriers to voting and registration remain substantial.

The locations and office hours of registration places are frequently so restrictive that significant numbers of minorities are unable to register, especially when those minorities live in distant rural areas far from the county seat. Moreover, even when minority citizens do manage to arrive at the registration offices during the regularly scheduled hours, the offices are frequently closed or the white registrars treat them with discourtesy that, at best, registration is a humiliating experience.

Problems are cited of polling places being located in all-white clubs or lodges where minority citizens are not otherwise allowed to go, and of the fear and intimidation which those citizens experience. By way of abuses relating to discriminatory purgings and reregistrations are also documented. And although fewer in number than in earlier years, there are still some reports of violence and intimidaion upon those who do attempt to become active in the political process. Thus, the need for the act continues.

The Voting Rights Act's special remedial, voting rights, and Federal examiners and registrars, section 5; Federal observers or poll watchers, section 6, and section 8, are now applicable to jurisdictions which had literacy tests or devices and less than 50 percent turnout at the time of the Presidential election of either 1964 or 1968. Those special remedies are now applicable to six Southern States and possibly to three New England counties, to areas of California and Arizona, to certain areas in New England, and to a few other counties. The provisions of H.R. 6219 would require that the special remedies continue to be applicable to these currently covered areas for an additional 10 years in assessing the future need for the act. It was felt that a 10-year extension is needed in order to have the act's section 5 preclearance requirements effective during the redistricting which will take place after the 1980 census. Experience has indicated that Federal approval of such plans is needed since it is often through the reapportionment and redistricting process that minority voters, in covenants being perpetuated or in force. In addition to section 5, the act's examiner and observer provisions can still be critical in terms of alleviating some of the many abuses yet persisting.

Recessionary. Further, I should also, of course, mention that while we do find continued abuses, there has been some measure of success under the act in terms of improving black and minority political life. The gains which have been made in the currently covered jurisdictions since the passage of the act have been significant. Prior to the passage of the Voting Rights Act, it was estimated that blacks in the southern covered States lagged behind whites in registration by 44.1 percentage points. Most recent estimates show that the gap has diminished to some 11.2 percentage points. The number of black voters who were registered in those jurisdictions has increased from less than 100 as a pre-act figure to approximately 1,000. However, one should take care not to be misled by these early signs of success. Problems still persist. In 1972, it was estimated that there were well over 2.5 million blacks unregistered in all of the 11 Southern States. Also, the seven covered States have failed to have the greatest disparities between percentages of black elected officials and percentages of blacks in the voting age population. For example, Alabama, as of April 1974, had a 32.4 percent black voting age population, while it had only 3.7 percent black elected officials; Mississippi had a 31.4 percent black voting age population, while it had only 0.7 percent black elected officials, et cetera. While blacks have, in fact, begun to serve in the covered areas in State legislatures, on county commissions, school boards, and city councils, no less than 10 of these hold statewide office. Therefore, in terms of statistical gains, the picture is mixed, and again I urge the need for the act continues.

Now, I would like to turn to another provision of H.R. 6219. That provision would make permanent what is now a temporary nationwide ban on the use of literacy tests and other devices. In this age of electronic communication, it is unfair to have a franchise extended only to those who can read and write. If the purpose of the literacy test is to insure an informed electorate, then surely the Congress can now find that purpose can be achieved without continuing a position of a literacy test. Moreover, it is imperative that we disallow such tests — since they have historically been the tools of abuse in denying minorities, with poor educational backgrounds, the franchise.

In addition to extending the Voting Rights Act, on the basis of other documentation found in the record, H.R. 6219, in its title II, also broadens the act's special coverage to new geographic locations in order to insure the protection of the voting rights of language minority citizens. This is accomplished in title II by expanding the definition of "test or device" to also mean the use of English-only election materials in jurisdictions where more than 5 percent of the voting age citizen population is comprised of members of any single language minority group. This is similar to the bilingual minority group as American Indians, Alaskan natives, Asian Americans or Spanish heritage groups.

Currently available data indicates that the title II coverage would be triggered in certain counties in California—including the two counties already covered—in areas of Arizona—again, most of which are already covered—in areas of Florida, Colorado, New Mexico, New York, North Carolina, South Dakota, Utah, Virginia, Hawaii, and in the States of Alaska and Texas. The remedies which title II would mandate in these areas are: First, bilingual election procedures; second, section 5 preclearance; and third, Attorney General authority to certify service of examiners and observers.

While I did not deduce and think that this title II expansion was necessary, during the subcommittee's hearing days, we heard of the extensive language barriers still being experienced by language minorities. We heard of the shamefully high illiteracy rate among language minorities in the areas proposed to be covered and of the small number of language minority citizens holding elective office—this, despite the fact that they comprise significant portions of the population. We heard of economic reprisals being suffered by such citizens when they attempt to participate in the political process, of the intimidation and harassment resulting from informal law enforcement "patrolling" of language minority precincts during elections, of polling places located only in white or Anglo areas of a community, of annexations which add only white or Anglo voters to the city rolls, of discriminatory gerrymandering, and of uncooperative and hostile local election officials. The Civil Rights Commission's report, which is also a part of our record, further documents the greatly disproportionate effect of Arizona's purging laws on non-English-speaking Navajo citizens and Mexican-Americans and of New York's purging laws on non-English-speaking Puerto Rican citizens. The purging notices in these areas have been provided only in the English language. Areas in the country with significant populations of Spanish-speaking and American Indians were found to have severely overcrowded and too few polling places. Also, the Justice Department has recently taken part in litigation which was necessary in order to force certain county officials in the Southwest to seat a duly elected Navajo, as a county commissioner.

The needs are there. They are met by title II, and I therefore ask that you support its passage.

H.R. 6219 also contains a title III which is directed solely toward the language barriers faced by language minority citizens, usually being perpetuated by inequities in the educational opportunities provided. This title serves only to suspend the right of English-only elections where the language minority constitutes more than 5 percent of the voting age population and has a high illiteracy rate. It does not depend on overall low voting turnout, nor does it impose any of the act's special remedies aside from a bilingual elections requirement.

It is important to note that this legislation is both narrow and temporary in
nature. It applies in counties of high population and high illiteracy among the language minorities, and it applies for only a period of 10 years. The view and the conclusion that there was no need for such bilingual election procedures because the scars of unequal educational opportunities will have by then been removed. Acting on this philosophy, the courts have required jurisdictions to speed up the process of improving the educational opportunities for these language minorities, title III allows jurisdictions to "bull out" of bilingual coverage if they can come in at some later date and prove an increased or improved rate of literacy for the language minority group. This bilingual elections requirement is nothing new. Such procedures are now already taking place in many areas of the country. We should not now hesitate to mandate it on a nationwide basis where language minorities have large concentrations and are functionally illiterate.

Title IV of H.R. 6219 is generally a series of technical and enforcement amendments. These amendments, will be discussed in some detail by other members of the subcommittee.

I close now by again asking your full support for H.R. 6219. It is a bill which seeks to insure that minorities now protected by the Voting Rights Act continue to be protected. And it also seeks to protect those minorities who are still, in 1975, excluded from the processes of democracy. These excluded citizens are waiting in the wings to see what your decision will be. Please do not disappoint them.

Mr. Chairman, I ask your support today for H.R. 6219, a bill which both extends and expands the protections of the Voting Rights Act. In 1965, when the Voting Rights Act was first passed, it was in response to the severe voting discrimination being experienced by minority citizens in certain areas of the country. Those abuses had been uncovered by Federal voting legislation enacted in 1957, 1960 and 1964. Despite this earlier legislation, voting abuses still persisted in areas because of the myriad forms of discrimination devised by those determined to break the law. Case-by-case litigation under the earlier laws meant extreme judicial delays and the creation of new discriminatory methods as old ones were voided by the courts.

This situation came to a head in 1965, when citizens seeking to peacefully demonstrate against voting barriers suffered loss of life and serious injury. The sufferings of these demonstrators and marchers took place at the hands of those determined to deny them the right to vote; and it was only a short time later that the 89th Congress expressed its concern by enacting into law the Voting Rights Act of 1965. That act was landmark, both in terms of its abandonment of the case-by-case approach and as an act which made the significant improvements which it has thus far wrought.

The Voting Rights Act was designed to effectuate immediate relief by means of an automatic triggering device which made the act's special remedies applicable to jurisdictions meeting the triggering criteria. After considerable study, the Congress recognized the automatic coverage of those jurisdictions where the overall turnout or registration rate in the 1964 Presidential election was less than 50 percent and where literacy tests or other similar devices had been used at the time of the 1964 Presidential election. It was felt that by covering those areas, the significant "problem" spots would be identified because discriminatory use of literacy tests was then known to be one of the primary means by which blacks were being excluded from the electoral process. As a result of the operation of the trigger, special coverage in 1965 was applicable to six Southern States and portions of another, and to a sprinkling of other counties throughout the country.

Special coverage of those jurisdictions meant that they became automatically subject to a number of special requirements under the act. First, the use of literacy tests or other similar devices was automatically suspended in those areas. Second, section 5 of the act required that all voting changes made by jurisdictions subject to the act be subject to review by either the District Court for the District of Columbia or by the Attorney General of the United States prior to their implementation. And a third special remedy; namely, Attorney General authorization to certify service of Federal registrars and poll watchers, was also applicable in affected areas. Each of these special remedies was initially designed to be effective for a 5-year period.

In 1970, when the covered jurisdictions were soon to become exempt from the operation of the remedies, the Congress thoroughly re assessed the situation and found that severe voting problems still persisted. The Congress found that the act had, at that time, fallen short of its objectives. By April 1974, the total black registration rate had increased to 23.6 percentage points. In 1972, that disparity had decreased to 23.6 percentage points. Likewise, in Mississippi, that disparity had decreased from 52.2 to 9.4 percentage points. These closing of gaps have occurred throughout the covered southern jurisdictions.

Despite these impressive gains in the areas of black registration, a bleaker side of the picture yet exists. Most recently available data reveal that percentage point disparities of 23.6, 16, and 17.8 can still be found in the States of Alabama, Louisiana, and North Carolina, respectively. In addition, the diminishing statewide disparities which have been pointed to cannot be allowed to obscure the tremendously low rates of registration still afflicting blacks within various counties in the covered States. In Louisiana, for example, significant disparities are more evident in rural than in urban areas. For instance, in the least populous parishes of that State, in 6 of the covered counties in North Carolina, blacks are registering in excess of 20 percentage points in 8 of the 10 least populous parishes of that State. In South Carolina, as in Louisiana, whites are registered at much higher rates than blacks in many rural counties. For example, in Newberry County, S.C., the gap is 37 percentage points and in McCormick County, S.C., the gap is 28 percentage points.

In much the same manner as improved registration rates have been documented for blacks in covered southern jurisdictions so also has there been improvement in those areas in terms of an increasing number of black elected officials. One estimate suggests that only 72 blacks served as elected officials in the 11 Southern States in 1965, including those Southern States presently covered under this act. But the total number of black elected officials in the seven Southern States covered by the act had increased to 963. After the November 1974 elections, those States...
could boast of one black Member of the U.S. Congress, 68 black State legislators, 429 black county and municipal officials. This rapid increase in the number of black elected officials marks the beginning of significant changes in political life in the covered southern jurisdictions.

So as not to be misled by the sheer numbers, however, other points should be noted when assessing this progress. Significant among these points is the fact that most of the offices newly held by blacks are relatively minor and located in small municipalities or counties with overwhelmingly black populations. Also, in the seven Southern States which are covered by the Voting Rights Act, no black holds statewide office. As of November 15, 1974, the number of blacks in the State legislatures in the covered southern areas fell far short of being representative of the number of blacks residing in those jurisdictions. In Mississippi, for example, the percent of State legislative seats held by blacks is black. In South Carolina, a State with a 30.7 percent black population, only 7.6 percent of the State legislative seats are occupied by blacks.

That minority political progress has been made under the Voting Rights Act is undeniable. However, the nature of that progress has been limited. It has been noted in particular that continuing and significant deficiencies yet existing in minority registration and political participation.

A 10-year extension of the Voting Rights Act was recommended by the Commission on Civil Rights Act was recommended by the Commission on Civil Rights Act was recommended by the Commission on Civil Rights Act was recommended by the Commission on Civil Rights Act was recommended by the Commission on Civil Rights Act was recommended by the Commission on Civil Rights Act was recommended by the Commission on Civil Rights Act was recommended by the Commission on Civil Rights Act was recommended by the Commission on Civil Rights Act was recommended by the Commission on Civil Rights Act was recommended by the Commission on Civil Rights Act was recommended by the Commission on Civil Rights Act was recommended by the Commission on Civil Rights Act was recommended by the Commission on Civil Rights Act was recommended by the Commission on Civil Rights Act was recommended by the Commission on Civil Rights Act was recommended by the Commission on Civil Rights Act was recommended by the Commission on Civil Rights Act was recommended by the Commission on Civil Rights Act was recommended by the Commission on Civil Rights Act was recommended by the Commission on Civil Rights Act was recommended by the Commission on Civil Rights Act was recommended by the Commission on Civil Rights Act was recommended by the Commission on Civil Rights Act was recommended by the Commission on Civil Rights Act was recommended by the Commission on Civil Rights Act was recommended by the Commission on Civil Rights Act was recommended by the Commission on Civil Rights Act was recommended by the Commission on Civil Rights Act was recommended by the Commission on Civil Rights Act was recommended by the Commission on Civil Rights Act was recommended by the Commission on
from 1970-74, Federal examiners listed 1,974 black voters. Estimates provided by the Voter Education Project in Atlanta, Ga., indicate that the registration of blacks by Federal examiners accounted for most of the black registration increase in Georgia, 13.2 percent in Louisiana, 27.5 percent in Mississippi, and 7.4 percent in South Carolina. In general, the 10.5 percent increase in black registration has been accomplished through Federal examiners.

Although Federal examiners have been used sparingly in recent years, the provisions of the act authorizing their appointment must be continued. Diminishing disparities between black and white registration rates in the covered Southern States can hardly be hailed as indicative of a lack of work to be performed by Federal examiners. The use of such Federal officers cannot now be eliminated when most recently available data indicate that 34.2 percent of the black registration in Alabama is still over 20 percentage points and in Louisiana the disparity continues at 16 percentage points. Also, such examiners might serve to increase minority registration in rural areas where it is found to be lowest.

In addition, the hearing record developed before the subcommittee revealed that in many of the covered jurisdictions, the times and places of registration are so restrictive that blacks, frequently living in rural communities, are unable to register. Some white registrars in these areas have been reputed to treat blacks with extreme discourtesy, so much so that blacks find the registration process under these circumstances at best embarrassing and humiliating.

Discriminatory purgings have also been experienced by minority voters in certain covered areas. Thus, the job which can yet be performed by Federal examiners in these covered jurisdictions is appropriate to their present needs.

The remedy of Federal observers must also be extended in covered jurisdictions. Under section 8 of the Voting Rights Act, Federal observers can be critical in that they provide a calming and objective presence which can serve to deter any abuse which might occur. Federal observers can also still be effective in those jurisdictions where there has been registration frequently experienced by minority voters at the polls.

In addition to extending the special provisions of the Voting Rights Act, H.R. 6219 is an appropriate nationwide ban on literacy tests into a permanent ban. In 1965, when Congress first enacted the Voting Rights Act, it suspended literacy tests and other similar ability devices only in the jurisdictions specifically covered by the act. In 1970, at the time that the Voting Rights Act was last extended, Congress extended this prohibition with that legislation for a year and extended prohibition to be effective until August 6, 1975. Therefore, at the same time that the act's special remedies expire for certain jurisdictions, so also does the temporary nationwide test ban expire.

Tests or devices, as defined in the act, remain on the books in some 14 States. Thus, it would truly be a step backward if the Congress enacted the temporary nationwide test suspension, it adopted a proposal which had been advanced strongly in the administration's proposed legislation. In testimony presented by the Department of Justice minority subcommittee chairman, the Attorney General testified that, under the Supreme Court's decision in Gaston County v. United States, 395 U.S. 265 (1969), any literacy test has a discriminatory effect if the State or county in which it is used has its minority citizens inferior educational opportunities. It may be assumed that many minority citizens who have received inferior education in certain areas have been subjected to literacy tests in their home States or counties which have so often served as the tools of abuse.

The provisions of H.R. 6219 which extend the act for 10 years and permanently ban literacy tests and devices which have so often served as the tools of abuse.

The provisions of H.R. 6219 which extend the act for 10 years and permanently ban literacy tests and devices which have so often served as the tools of abuse.

June 2, 1975
CONGRESSIONAL RECORD—HOUSE 16249
In its recently released voting report, the U.S. Commission on Civil Rights indicated that there was evidence which tended to establish that minority citizens, in jurisdictions other than those currently covered by the act, encounter discrimination in the electoral process. The Commission recommended that the Congress give serious consideration to amending the Voting Rights Act to cover those language minorities which, according to their preliminary information, require the protection of the law. Following through on that recommendation, the Subcommittee on Civil and Constitutional Rights did in fact broaden its deliberations on the matter to include an examination of the voting problems experienced by minority citizens in uncovered areas.

Based on an extensive evidentiary record of voter discrimination against and high rates of illiteracy among language minority groups, H.R. 6219 was introduced so as to apply the Voting Rights Act's special remedies to areas where severe problems were identified. H.R. 6219 includes the term "language minority," and that term is defined to mean persons who are Asian American, American Indian, Alaskan Native, and of Spanish heritage.

Because of the reliance, under the title II trigger, upon census determinations for coverage purposes, it is intended that the census definitions or usages of these terms are to be applied. Based upon census usage, the category of Asian American includes persons who indicate their race to be Japanese, Chinese, Filipino, or Korean. It is therefore these Asian groups which are to be used for purposes of triggering the Act's special remedies. Although Census usage also includes in the Asian American category persons who indicate their race as Hawaiian, it is not intended that this group be included in the Act's special coverage determinations. The category of American Indian includes persons who indicate their race as Alaskan Native—again, most of which are already covered—in areas of Florida, Colorado, New Mexico, Oklahoma, New York, North Carolina, South Dakota, Utah, Virginia, Hawaii, and in the States of Alaska and Texas.

A. In these areas, title II would require: First, suspension of literacy tests; now defined to also mean the conduct of English-only elections. Therefore, a covered jurisdiction would have to comply with a mandate for bilingual election procedures; second, section 5 preclearance of all new voting changes; third, Attorney General authority to certify service of Federal examiners; and fourth, Attorney General authority to certify service of Federal observers.

As I noted above, the language groups covered generally suffer from severe language barriers in that they experience a high rate of illiteracy in the English language. For example, it has been estimated that 80 to 90 percent of the Spanish heritage citizens in the counties which proximate the Rio Grande speak English and Spanish. It has also been found that in Dallas, Fort Worth, and Houston, 50 percent of the Spanish heritage citizens speak and write only Spanish. Also, 8,000 to 10,000 persons use Spanish as their primary language in the Texas school systems.

Why are these four language minority groups chosen for protection? It was found, during the subcommittee's deliberations on this matter that members of these language minority groups are severely affected by language barriers. It was further found that in most cases, these language barriers were the result of unequal educational opportunities having been afforded to these groups in the past. The English language effectively members of these four groups from any meaningful participation in the electoral process.

Therefore, as a trigger, title II of H.R. 6219 brings under special coverage jurisdictions where English-only elections were conducted in the 1972 Presidential election if those jurisdictions had over 5 percent of a single language minority group and if the jurisdiction's overall turnout or registration rate at the time of the 1972 Presidential election was less than 50 percent. Essentially, in title II, the "trigger of title II" is expanded to also mean the use of English-only election materials in jurisdictions where more than 5 percent of the voting citizens indicated they are members of any single language minority group. The trigger of title II is virtually identical to the traditional trigger, now found in section 4(b) of the act; that is, the existence of a "test or device," as newly defined, and less than 50 percent turnout or registration at the most recent Presidential election.

Currently available data indicates that title II coverage would be triggered in certain counties in California—including the two counties already covered—in areas of Arizona—again, most of which are already covered—in areas of Florida, Colorado, New Mexico, Oklahoma, New York, North Carolina, South Dakota, Utah, Virginia, Hawaii, and in the States of Alaska and Texas.

The same pattern of educational inequality exists with respect to children of Alaskan Native and of Spanish heritage origin. In one of its many reports on the subject, the U.S. Commission on Civil Rights concluded:

The basic finding of this report is that minority students are in the first place victims of the English language barriers. Minorities, blacks, American Indians—do not obtain the benefits of public education at a rate equal to that of their Anglo classmates.

In Natonomah v. Board of Education, 385 F. Supp. 716 (D.N. Mex. 1978), a Federal district court has found that Navajo pupils in the Gallup-McKinley School District have been denied equal educational opportunities. Similar findings have been made by the Supreme Court and lower Federal courts regarding students of Spanish origin. Finally, in Hoolich v. State Operated School System, 452 F.2d 2450 (9th Cir., 1972) (plaintiffs motion for summary judgment denied) (appeal pending before Supreme Court of Alaska), the plaintiffs who have challenged the practice of the State of Alaska to provide public secondary schools for Alaskan Native children only in urban areas distant from their communities. Most non-Native children, on the other hand, attend oral and secondary schools in their own communities.
Thus, it is apparent that the providing of bilingual ballots for the affected groups is a much-needed remedy.

I should also note that the providing of bilingual election processes is certainly not a radical step. Bilingual election procedures have been ordered by courts in numerous jurisdictions with Spanish-speaking populations. Such procedures have been ordered in New York City, in Chicago, in Philadelphia, and in certain counties in New Jersey. Some non-court-ordered bilingual election procedures can now be found in Dade County, Fla., New Jersey, California, Massachusetts, Connecticut, and Pennsylvania. Among these areas, the range is from total bilingual procedures to more limited bilingual procedures. In certain instances, these methods have been implemented at the direction of the Secretary of State and in others, some bilingual procedures are required by federal court orders.

In some cases, the court decisions requiring such procedures, the court found that:

"It is simply fundamental that voting instructions and ballots, in addition to any other material which forms part of the official communication to registered voters prior to an election, must be in Spanish; as well as English, if the vote of Spanish-speaking citizens is not to be seriously impaired."

That court ordered complete bilingual election materials and assistance, from dissemination of registration information to more limited bilingual procedures. In certain instances, these methods have been implemented at the direction of the Secretary of State and in others, some bilingual procedures are required by federal court orders.

In some cases, the court decisions requiring such procedures, the court found that:

"It is simply fundamental that voting instructions and ballots, in addition to any other material which forms part of the official communication to registered voters prior to an election, must be in Spanish; as well as English, if the vote of Spanish-speaking citizens is not to be seriously impaired."

That court ordered complete bilingual election materials and assistance, from dissemination of registration information to more limited bilingual procedures. In certain instances, these methods have been implemented at the direction of the Secretary of State and in others, some bilingual procedures are required by federal court orders.

Some may, of course, wonder why the term "language minorities" has been limited to include only the four designated groups: and why other ethnic groups with native languages other than English were not included. No evidence was received concerning the voting difficulties of other language groups. Indeed, the voter registration statistics for the 1972 Presidential election showed a high degree of participation by other language groups: German, 79 percent; Italian, 77.5 percent; Polish, 79.8 percent; and Russian, 85.7 percent. These figures are significantly high when compared to the comparable Spanish figure of 44.4 percent.

In addition to language barriers, the subcommittee found instance after instance of clear voting discrimination being practiced against language minorities. We heard of acts of physical, economic, and political intimidation where these citizens attempt to exercise the franchise. Witnesses testified that local law enforcement officials in areas of Texas Navajo reservations, Arizona, Oklahoma, and New Mexico, and in other areas, have been subjected to harassment and intimidation by Mexican American voters.

Much more common, however, are economic repressions against minority political activity. Fear of job loss is a major deterrent to political participation by these language minorities. A witness from Texas indicated that an Anglo candidate who was a loan officer at the bank went to each Mexican American who had loans with the bank and told them he expected their votes. The subcommittee record is replete with overt economic intimidation designed to interfere with and abridge the rights of Mexican American voters. In its analysis of problems of electoral participation by Spanish-speaking voters, the Commission on Civil Rights reported that some Mexican American voters are afraid their welfare checks will be reduced because of their political activity. Underlying many of the abuses is the economic dependence of these minorities upon the Anglo structure. People whose jobs, credit, or housing depend on someone who wishes to keep them politically powerless are not likely to risk retaliation for asserting or acting on their own views.

Because of discrimination and economic dependence, and the fear that these factors have created, language minority citizens for the most part have not succeeded in seeking political office or in acquiring local domination. The proportion of elected officials who are Mexican American or Puerto Rican, for example, is substantially lower than that of the population. Mexican Americans comprise 16.4 percent of the population, they hold only 2.5 percent of the elective positions. In New York, where Spanish-heritage citizens comprise 7.4 percent of the population, they hold less than 0.1 percent of elective positions.

The subcommittee also heard extensive testimony on the question of representation of language minority citizens, that is, in the structure of government. In its analysis of problems of minority voting strength: Corpus Christi, Lufkin, and Waco, in addition to a number of local school districts throughout the State. In January 1972, the Federal District Court ruled that the use of multimember districts for the election of State legislators in Bexar and Dallas Counties, Tex., unjustifiably diluted and otherwise handicapped the political participation of Mexican-Americans and Blacks in those counties. This decision was affirmed by the U.S. Supreme Court in White v. Regester, 412 U.S. 783 (1973).

It is because of the prevalence of these extensive voting barriers that title II of H.R. 6219 provides that the jurisdictionally newly covered by its provisions are to have applicable to them, in addition to the bilingual election requirements, the section 5 preclearance provisions as well as the remedy of Attorney General authorization to certify service of Federal examiners and observers. Very many of the discriminatory election devices present in these newly covered jurisdictions would have been prevented by section 5 had its provisions been operative at the time of their implementation. H.R. 6219 takes care now to insure that beforehand any future implementation of such devices will be subject to section 5 review.

Furthermore, it is believed that the appointment of Federal examiners and observers in these newly covered areas ought to be authorized. Federal observers could clearly serve to diminish the intimidating impact of having police in all-white areas of the city or being subject to constant "law enforcement surveillance." Also, in those communities where independent and possibly registralization officials are found, examiners could "list" minority citizen residents.

Coverage under title II is based on a rational trigger which describes those areas for which we had reliable evidence
of actual voting discrimination in violation of the 14th or 15th amendment. It is possible, of course, that there may be areas covered by this title where there has been no voting discrimination. The bill takes advantage of this possibility by providing a provision which allows a jurisdiction to exempt itself from coverage of the act if it meets certain criteria. Any State or political subdivision may exempt itself by obtaining a declaratory judgment that English-only elections or any other "test or device" has not in fact been used in a discriminatory fashion against language minorities or other racial or ethnic groups for the 10 years preceding the filing of the action. The "bailout" process operates in the same manner as the current provision in the act and is a relatively minor one if no evidence of discrimination is present. In fact, with respect to jurisdictions covered by title II, it is expected that a successful bailout procedure will be obtained whenever the jurisdiction can demonstrate factors such as high turnout and participation by its language minority population; and literacy in the English language among members of the language minority is low. It is clear that if factors such as these could be demonstrated, for the 10 years preceding the filing of the bailout action, then the jurisdiction will be allowed to demonstrate that its election procedures did not have a discriminatory effect.

I should note that where H.R. 6219 defines "test or device" to also mean the conduct of English-only elections, or any other "test or device" as defined, whenever these reside over 5 percent citizens of a "single language minority," the single language minority terminology is used to indicate that populations cannot be aggregated from among the four language minority groups in order to reach the over 5 percent criteria. For example, American Indian citizens and Asian American citizens cannot be added together to meet the criteria. Of course, subgroups within a single language minority group are to be aggregated for coverage determination purposes. So, Japanese, Filipinos, Koreans, and Indians will be added together in arriving at any Asian American coverage. The same would be true with respect to adding together various tribal populations within a jurisdiction to arrive at American Indian coverage and adding together Aleut and Eskimo populations to arrive at Alaska Native coverage.

The question then naturally arises as to just what the bilingual mandate means when you have coverage triggered in areas where several subgroups of a single language minority reside and where subgroups speak a different language. Is the bilingual mandate to apply with respect to the language of each subgroup? The answer is yes. However, as a practical matter, the language account under this circumstance will usually be fulfilled primarily by the providing of bilingual oral assistance at each stage of the election process. This is so because two language minority groups; namely, American Indians and Alaskan Natives, while there are different languages spoken by their subgroups, those languages are generally oral only and, therefore, the bilingual election procedures are to be fulfilled only through bilingual oral assistance. Therefore, in many multiple language situations, a provision of multiple language ballots and materials required. Instead, what is required is that persons be available to orally assist the person in question with the translation of the ballot.

The multiple languages of the various American Indian subgroups can of course result in the printing of ballots and materials in two or more languages, in addition to English. This is true because these various subgroup languages, such as Korean, Japanese, and Chinese are in fact written. It is important to note, however, that any jurisdiction subject to title II coverage because of its American Indian population could attempt to hide this bilingual nature by providing the ballot on a subgroup-by-subgroup basis. In appropriate circumstances, this could of course be true for areas covered by language minorities other than Asian; and certainly the availability of the bailout procedure must be interpreted in this manner because the bilingual election mandate remedy could otherwise be considered overbroad. In the past, such an interpretation of the bailout has not been needed because the act has predominantly covered black citizens, among whom no comparable subgroup exists; and therefore no special remedies of the act tailored to meet needs on any subgroup basis.

Such is not the case under title II coverage in that bilingual ballots could be required in the languages of a number of different subgroups. It is important in such situations that a jurisdiction be allowed to demonstrate that its procedures; namely, English-only elections, have not discriminated against one or more of the pertinent subgroups, in order to be relieved of its obligation to provide special oral assistance to that subgroup or subgroups. This could be demonstrated by showing such factors as English literacy and/or high turnout and participation on the part of the subgroup for which the bailout is sought.

One general and final point to note with respect to title II is that it will essentially provide for 10 years of coverage for the affected areas. It is assumed that each of the act's special remedies will be applicable for 10 years of coverage for the affected areas. It is assumed that each of the act's special remedies will be applicable for 10 years because if the jurisdiction or devices and conducts bilingual elections from the effective date of this law, then 10 years hence it can automatically prove that it did not engage, nor will it engage, in a discriminatory fashion a test or device, including English-only elections—because it will not have used such devices or election procedures at all during that period.

I would like now to describe and explain the provisions found in title III of H.R. 6219. Title III of H.R. 6219, like title II, seeks to enfranchise citizens of four language minority groups—persons of Spanish heritage, Asian Americans, American Indians, and Alaskan Natives—which have excluded from the political process because of their inability to speak, write, or understand English. The line between title II and title III is based upon the severity of voting discrimination against language minorities. The evidence before the Committee demonstrates that the voting problems of language minority groups are not uniform in all parts of the country. That evidentiary record is reflected in the different findings made under the two titles. The less stringent provisions of title III are based largely on the unequal educational opportunities which language minorities have suffered at the hands of State and local officials.

In contrast, the more severe remedies of title II are premised not only on educational disparities in the affected areas but also on evidence that language minorities have been subjected to "physical, economic, and political intimidation" when they seek to participate in the electoral process. Essentially, title II seeks to enfranchise citizens of five jurisdictions which it newly covers, all of the Voting Rights Act's special remedies. Whereas, in jurisdictions covered by title III, H.R. 6219 mandates, for 10 years, bilingual election procedures.

The evidence before the committee indicated a close and direct correlation between high illiteracy among these groups and low voter participation. For example, the illiteracy rate among persons of Spanish heritage is 18.9 percent, among Chinese is 16.2 percent and among American Indians is 15.8 percent, compared to a nationwide illiteracy rate of only 4.5 percent for Anglos. In the 1972 Presidential election 78.4 percent of Anglos were registered to vote compared to 44.4 percent of persons of Spanish heritage.

It was found that the high illiteracy rate among these language minorities is not the result of mere happenstance. It bears responsibility for the inability of local officials to afford equal educational opportunities to members of language minority groups. In my earlier discussion of title II, the extent of educational disparities among the four language minority groups covered by H.R. 6219's expansion amendments is detailed a bit more.

While title III is predicated upon unequal educational opportunity for which the State bears responsibility, the purpose of the title is not to correct the deficiencies of prior educational disparities, albeit that may be a product of the noncomitant. Its aim is to permit persons disadvantaged by such inequality to vote now.

Title III covers the same language minorities as title II: citizens of Spanish heritage, Asian Americans, American Indians, and Alaskan Natives. As I noted earlier, the hearing record did not disclose any evidence of voting discrimination against other language minority groups. Again, since it will be census making the coverage determinations un-
der title III as well, the four designated language groups are to bear their census meaning and usage. It is intended that my earlier, more detailed discussion of this matter, as it relates to title II, be operative here as well. The meanings and definitions of these groups, as earlier discussed, apply to title III.

Because of the disparate voting problems reflected in titles II and III, the committee designed different triggers to take account of the dissimilarities among the jurisdictions with language minorities. A State or political subdivision is brought within the purview of title II if a single language minority comprises 5 percent of the total voting age citizen population of that group that is greater than the national average. For purposes of this title "illiteracy" is defined as failing to complete the fifth primary grade, the level at which a minimum comprehension in English ordinarily would be achieved. It is also a demarcation utilized by the Bureau of the Census in collecting data on illiteracy. The determination of census classifications is important because administrative determinations of coverage under this title are made by the Director of the Census. It is my understanding that the national average illiteracy rate, as defined in H.R. 6219, is 5.5 percent; that is, that 5.5 percent of the total population 25 years old or older has less than 5 years of school.

Also to title III's coverage trigger, I believe that some clarification is needed with respect to the precise manner in which the census determinations are to be made. For coverage purposes, and if the illiteracy rate of a single language minority group is greater than the national average within a single language minority group, for which illiteracy data is available, census is to make coverage determinations for illiteracy on a subgroup-by-subgroup basis rather than aggregate one illiteracy figure for the overall language minority group. Thus, it would work in this manner: A jurisdiction would meet the title III criteria if it had, for example, more than 5 percent Asian Americans but would only meet the illiteracy criteria if it had higher than the national average illiteracy rate among that subgroup. If, in my hypothetical, none of the Asian subgroups had a high illiteracy rate, coverage would not be triggered at all.

I note further that this interpretation of the triggering method of title III is consistent with the language of H.R. 6219. And I note specifically that where the language says "illiteracy rate of such persons," the "as a group" of the "as a group" language is intended to allow the illiteracy of a language minority individual from being considered. It must be a group's rate and not an individual's illiteracy rate used for purposes of determinations. But whether or not illiteracy must be determined on an overall language minority group basis or whether or not it is to be determined on a subgroup basis is left open in the language and that is why I have taken this opportunity to make it clear exactly what the specific intent is.

Unlike title II, and the present Voting Rights Act, covering an entire State under title III does not automatically cover every political subdivision within it. In order for a subdivision to be covered, it must also meet the 5-percent minimum requirement; that is, that 5 percent of its population is of a single language minority. If the population of a political subdivision does not contain 5 percent of the same single language minority which triggered statewide coverage, then that subdivision is not obligated to provide bilingual election materials in the relevant language.

Most of the jurisdictions covered by title II are also covered by title III. That occurs because coverage under H.R. 6219, as under title II, is determined by a "trigger" mechanism based on objective findings of the Attorney General and the Director of the Census. Underlying those administrative determinations is a statute, a legislative finding of a direct relationship between the "trigger" device and voting discrimination. As under the present act, coverage is thus "triggered" automatically.

It should be recalled that the line between title II and title III is based on severity of voting discrimination. Generally those jurisdictions in which the evidence shows extreme discrimination against language minorities will be covered by title II. On the other hand, title III is designed to be both broader and narrower. It covers more areas but imposes less stringent remedies. As a consequence, most of the jurisdictions covered under title II are also covered under title III. If a jurisdiction is found that the voting barriers experienced by these citizens is in large part due to a State's or a political subdivision's failure to provide bilingual election materials for its American residents for which illiteracy rates exceed the national average, then that subdivision is also covered under title III to remove itself from the bailout mechanism, this incentive to educate and make more literate language minority citizens. By so doing, the bailout mechanism, which rewards those jurisdictions which triggered coverage, or in large part, if it bails out, it may then conduct English-only elections without violating title III of H.R. 6219.

H.R. 6219 provides a title III bailout procedure which rewards those jurisdictions where literacy rates among language minority residents improve to at least the national measure. Having found that the voting barriers experienced by these citizens is in large part due to a State's or political subdivision's failure to provide bilingual election materials and whose illiteracy rate is not greater than the national average, where there are disparities in educational opportunities, the committee believed it appropriate to provide, through the bailout mechanism, this incentive to educate and make more literate language minority citizens. Jurisdictions could be released from the title III requirements prior to their expiration in 1985.

Alling jurisdictions covered by title III to remove themselves from the requirements of the title does not mean that the coverage determinations of the Director of the Census are reviewable. Those determinations are effective upon publication in the Federal Register and are not reviewable in any court. That is the way the present Voting Rights Act and title II operate. Thus the question of initial coverage is not subject to administrative or judicial challenge.

After the initial determination by the Director of the Census, however, there may be additional determinations which provide a basis for bailouts. For example, assume that a particular subdivision is covered based upon the 1970 census data showing that the illiteracy rate of a language group which triggered coverage exceeds the national average. If the 1980 census figures show that the illiteracy rate of that group has dropped to equal to, or below, the national average, then the subdivision would be eligible for bailout.

In seeking to bail out, a State or political subdivision may rely on data not gathered by the Census Bureau. Any survey which meets accepted scientific standards of reliability and validity may provide a basis for reviewing continued inclusion of a jurisdiction under title III. Of course, by subject to challenge in the judicial proceeding instituted by the State or political subdivision against the United States to remove itself from title III. In such litigation, the jurisdiction which triggered coverage, or their organizational representative, or any other aggrieved person, may intervene in the lawsuit in appropriate circumstances. As noted earlier, some juris-
dictions will be covered by both titles II and III. If such a State or political subdivision "balls out" from either title, it does not relieve itself of the obligations of the other title. A jurisdiction covered by both titles must satisfy the require-
ments of each, including the differing provisions for bailing out. It must be remembered that the "trigger" mechanism upon which enforcement is employed in the Administrative Procedure Act.

In this regard, the provisions of H.R. 6219 also amend the act by adding section 402, which would allow a court, in its discretion, to award attorney's fees to prevailing parties in suits brought to enforce the Voting Rights Act amendments. That section would, of course, also authorize attorney's fees in cases brought under statutes designed to enforce or enacted under either or both of those amendments. The awarding of such fees is important in the area of voting rights because of the significant role which private citizens must play in their enforcement. Similar attorney's fees pro-
visions can be found in title II of the Civil Rights Act of 1964 [42 U.S.C. § 2000a-3(b)] and in title VII of the National Labor Relations Act, which are designed to prohibit discrimi-

In its report on this legislation, the committee noted its approval of the pre-
cedent where attorney's fees are allowed by statute. It is sound policy to au-
thorize private remedies to assist the process of enforcing voting rights. Therefore, the committee has, on the one hand, given enforcement responsibility to governmental agencies, and on the other, has also provided that private persons acting as a class or on their own behalf. It is sound policy to au-
thorize private remedies to assist the process of enforcing voting rights.

As with cases brought under 20 U.S.C. 1617, the Emergency School Aid Act of 1972, defendants in cases brought to enforce voting guarantees are ordinarily State or local bodies or officials. It is inten-
ded that under section 402 of H.R. 6219, as is the case with section 1617, at-
torney fees, like other items of cost, can be assessed from the funds under the offici-
al, local, or State government's jurisdiction or from the state or local government or agency funds or treasuries, or directly from the official. During its deliberations on extending the language minority groups, subgroup il-
erior, and the determinations under each, are made separately and independently.

It should also be recalled that the remedies provided by H.R. 6219 are in no way, and cannot be considered to have prevailed when they vindicate rights through a consent judg-
ment or without formally obtaining re-

right to reexamine the submission of additional information concerning a court's finding from the running of the 60-day period. That no objection will be made to the final determination. As with the request of the Attorney General, the Court may remand the case to a court of appeals or remand the case to the District Court if the District Court or court of appeals has failed to consider the issue of the 60-day period. In such event, the District Court or Court of Appeals shall make such determinations as are necessary to carry out the purposes of the Act.
The单个amendment to H.R. 6219, adopted at the full committee level, serves to conform section 10 and title III of the present act to reflect the current state of the law and particularly the ratification of the 24th and 26th amendments. Title III of the current act, which prohibits the denial of the right to vote of citizens 18 years of age and older in National, State and local elections, was passed by the Congress as part of the 1970 amendments. In Oregon v. Mitchell, 400 U.S. 112 (1970), the Supreme Court upheld the constitutionality of title III insofar as it lowered the voting age to 18 years of age. However, the Court held that that title III prohibition was not valid for State and local elections. Subsequently, in 1971, the 26th amendment was submitted to the States for ratification. That amendment, by prohibiting the denial or abridgment of the right to vote of persons 18 years of age and older by the United States or any State, accomplishes the end which Congress had sought to achieve by its enactment of title III. The committee's amendment to title III deletes what are now unnecessary findings and prohibitions. The amendment retains, however, title III's enforcement provisions, but modifies them to authorize Attorney General enforcement of the 26th amendment.

The amendment, adopted at the committee level, is intended to conform that section to reflect the ratification of the 24th amendment and the Supreme Court's decision in Harper v. Virginia Board of Elections, 383 U.S. 663 (1966), the latter having been decided after the 1965 enactment of section 10. The 24th amendment prohibits the denial or abridgment of the right to vote in Federal elections because of the failure to pay any poll or other tax.

In Harper, supra, the Court held that it is a denial of the equal protection clause of the 14th amendment for a State to deny the right to vote in its elections because of the failure to pay a poll tax. Section 10(b) is amended by adding section 2 of the 24th amendment to the other enforcement provisions, pursuant to which Congress directs the Attorney General to institute actions against poll tax requirements. Section 10(d) is deleted and replaces it with a new section that is also deleted and replaces it with a new section.

Mr. BUTLER. Yes. My question is, with respect to this analysis, does the gentleman have objections other than those set forth?

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield the gentleman from California.

Mr. EDWARDS of California. The Commission on Civil Rights, by letter dated May 16, 1975, reviewed the proposals of the gentleman from Virginia in great detail and said in the letter that on the basis of the enclosed staff memorandum the Commission decided to recommend against the adoption of the amendment in the present form, and in a 17-page letter or memorandum, which is an analysis of the Butler impossible bailout amendments.

Mr. BUTLER. Yes. My question is, with respect to that analysis, does the gentleman have objections other than those set forth?

Mr. EDWARDS of California. Generally speaking, the objections that I have and will outline later have to do with the objections by the U.S. Commission on Civil Rights.

Mr. BUTLER. I thank the gentleman. I would also like to call to the gentleman that this letter of May 16, 1975, only came to my attention today. That may be a form of discrimination.

In any event, Mr. Chairman, I have endeavored to redraft my bailout amendment to accommodate the objections.

I would also like to call attention to the letter from the Attorney General of the United States and the objections to the drafting that he called to our attention.

Mr. Chairman, the chairman of the subcommittee has covered the legislation which I will endeavor to bring before the House with the details of it again, except to say that once more that the Voting Rights Act was enacted in response to a shameful situation existing in 1964 requiring governmental action. I regret it was Federal action. The Voting Rights Act, in my judgment, does violence to the Federal system, and at the time I would have thought it was unconstitutional. The Supreme Court has indicated otherwise.

Whether the Voting Rights Act has been effective or not in the interim is not easily determined. I mention this because there have been so many things going on in this area during this time that it is impossible to say exactly what is responsible for the improved voting opportunities of the minority. I do not have any hesitation, however, in saying that the voting rights of the minorities have been substantially improved. Nonetheless, the figures from the report in the report of the majority of the subcommittee and the committee have been challenged by the attorney general of Virginia by saying that the figures are discredited.

If I may have the attention of the gentleman from California (Mr. Edwards), on this account, I call attention to a copy of the letter of May 16, 1975, from the attorney general to me, in which he said:

It is apparent that the compilers of the chart, without indicating whose figures are from different materials in order to prove their preconceived point.

This indicates that the voting situation in Virginia was dramatically better before 1964 than these figures indicate, and I would ask for the improved voting opportunities of the minority. I do not have any hesitation, however, in saying that the voting rights of the minorities have been substantially improved. Nonetheless, the figures from the report in the report of the majority of the subcommittee and the committee have been challenged by the attorney general of Virginia by saying that the figures are discredited.

If I may have the attention of the gentleman from California (Mr. Edwards), on this account, I call attention to a copy of the letter of May 16, 1975, from the attorney general to me, in which he said:

It is apparent that the compilers of the chart, without indicating whose figures are from different materials in order to prove their preconceived point.

This indicates that the voting situation in Virginia was dramatically better before 1964 than these figures indicate, and I would ask for the improved voting opportunities of the minority. I do not have any hesitation, however, in saying that the voting rights of the minorities have been substantially improved. Nonetheless, the figures from the report in the report of the majority of the subcommittee and the committee have been challenged by the attorney general of Virginia by saying that the figures are discredited.

If I may have the attention of the gentleman from California (Mr. Edwards), on this account, I call attention to a copy of the letter of May 16, 1975, from the attorney general to me, in which he said:

It is apparent that the compilers of the chart, without indicating whose figures are from different materials in order to prove their preconceived point.

This indicates that the voting situation in Virginia was dramatically better before 1964 than these figures indicate, and I would ask for the improved voting opportunities of the minority. I do not have any hesitation, however, in saying that the voting rights of the minorities have been substantially improved. Nonetheless, the figures from the report in the report of the majority of the subcommittee and the committee have been challenged by the attorney general of Virginia by saying that the figures are discredited.

If I may have the attention of the gentleman from California (Mr. Edwards), on this account, I call attention to a copy of the letter of May 16, 1975, from the attorney general to me, in which he said:

It is apparent that the compilers of the chart, without indicating whose figures are from different materials in order to prove their preconceived point.

This indicates that the voting situation in Virginia was dramatically better before 1964 than these figures indicate, and I would ask for the improved voting opportunities of the minority. I do not have any hesitation, however, in saying that the voting rights of the minorities have been substantially improved. Nonetheless, the figures from the report in the report of the majority of the subcommittee and the committee have been challenged by the attorney general of Virginia by saying that the figures are discredited.

If I may have the attention of the gentleman from California (Mr. Edwards), on this account, I call attention to a copy of the letter of May 16, 1975, from the attorney general to me, in which he said:

It is apparent that the compilers of the chart, without indicating whose figures are from different materials in order to prove their preconceived point.

This indicates that the voting situation in Virginia was dramatically better before 1964 than these figures indicate, and I would ask for the improved voting opportunities of the minority. I do not have any hesitation, however, in saying that the voting rights of the minorities have been substantially improved. Nonetheless, the figures from the report in the report of the majority of the subcommittee and the committee have been challenged by the attorney general of Virginia by saying that the figures are discredited.
an explanation as to exactly where they appear because there are distortions.

Mr. Chairman, the covered jurisdictions have come under this act presumably because they are not inclined to be generous with voting opportunities of minorities as Congress considers appropriate. What I am saying here is that we would not have this law if we did not have a problem in these jurisdictions.

The Robinson Committee finds that certain vestiges of discrimination still exist in the covered jurisdiction after 10 years, it means two things: That the act is deficient in some regard, and I will submit that the chairman of the subcommittee and the chairman of the committee have put their fingers on a few of them today. The location of voting places, the polling places themselves, is an excellent example of this sort of thing and of the fact that there is objection still persisting.

The reason there is no inclination in the covered jurisdiction to change their voting laws is very simple: They have to go to Washington, to the Attorney General of the United States, and have him approve all of these changes. I am sure that if changes still persist persist because they are frozen in the law by the Voting Rights Act, and there is no inclination under the Voting Rights Act to expand the voting opportunities of minorities in the covered jurisdiction. That is so for two reasons: There is no reason to do so and it is because of the burdensome provisions of Section 5 of the Voting Rights Act.

Section 5 of the Voting Rights Act is the one that requires the covered jurisdiction to take every change in the voting law to the Attorney General of the United States for his approval.

I mention this so that the Members may be aware of exactly how it works: Each time we change a voting procedure in any jurisdiction we have to start all over again and to file section 5 to process the change in the voting procedure has to go to Washington, D.C., to be approved by the Attorney General of the United States.

The classic example of this is one which occurred in the State of Virginia where the change would have required the partitioning off of the hallway in the city hall of the city of Fredericksburg, Va., of 3 feet of the registrar's office. The city was advised by the Department of Justice that this was a change which was subject to the preclearance provisions and the hallway could not be widened without creating an alcove in the mayor's office. This record indicates, as it does in the case of all of these classic examples, the details which must be taken to and approved Washington; this is not anything to do with the sovereignty of the covered jurisdictions.

Several of the witnesses before our subcommittee proudly called this an "Reconstruction legislation" the second reconstruction. But what is now proposed, with this 10-year additional extension, would extend this reconstruction legislation beyond the life even of the post-Civil War reconstruction legislation.

The burden of this status are a nuisance, but the covered jurisdictions have learned to live with them. Contrary to the representations of the gentleman from California, (Mr. Edwards) and others they are a burden, and they are indeed a burden to the State of Virginia.

For example, we in Virginia have had over 2,500 changes in voting laws which have been submitted to the Office of the Attorney General of the United States. A letter from the Office of the Attorney General dealing with reference to the amount of time that must be taken to process section 5 submissions indicates that an average of 54 days are taken for a routine submission that is sent to the Office of the Attorney General of the United States for its approval, and the result is that we are continually in a never-never land as to which changes are correct State law, and which are not. The average time for all submissions to be dealt with is 54 days, and those to which objections are entered average 67 days. This is indeed a burden to the State of Virginia. In the State of Virginia we have 195 separate local election jurisdictions, and all of those people have to be cognizant of the Voting Rights Act, and understand what it is all about.

The attorney general of Virginia has one man in his office whose principal function is to make sure that we comply with the Voting Rights Act. As a result, we have to continually have seminars and educational experiences to stay abreast of the complex regulations interpreting the act, just to change a voting rights provision, a simple voting rights problem of jurisdiction.

The problem is that now that we are getting ready to extend this act for another 10 years; the Members must understand that under the existing legislation there is no way that a covered jurisdiction can get out from under these burdensome provisions of the Voting Rights Act; there is just no way.

The Supreme Court of the United States has said that, "Mr. DRINAN. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman has expired.

Mr. BUTLER. Mr. Chairman, I yield myself 5 additional minutes.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. Chairman, I wish to emphasize the point that under the existing legislation there is no way that a covered southern jurisdiction in the United States can get out from under these burdensome provisions of the Voting Rights Act; a jurisdiction proves that its literacy test did not discriminate.

The literacy test in the State of Virginia was that a person simply had to register in writing, that was all; there was no real problem there. But now the Supreme Court of the United States has said that, in a recent effort by the State of Virginia to prove itself out from under the act, that they cannot prove that they did not discriminate in the use of a literacy test, if at the time the literacy test was used in 1964 they knew that such a test was discriminatory for blacks. So now if you had a separate but unequal school system and a literacy test in 1964, there is no way that you can prove that that literacy test was not discriminatory. And the effect of that is for States like Virginia, where we can prove and have proven that it was not being used to discriminate, that you cannot come out from under the act.

That raises a serious question because what we are doing by extending this act for 10 years is we are sentencing every covered jurisdiction to submitting every change in its voting procedure, every little change in its voting procedure, to the Attorney General of the United States, whom no one elected, until 1985 for approval and, if we are reducing, a conclusively presumed voter discrimination which occurred in 1964. People will be voting in 1985 who were born in 1964 and that law has been in effect for two Presidential elections, and there is already been in effect for two presidential elections. We are extending it for three additional Presidential elections. This is a small step; it is a tremendous step; and it raises serious constitutional questions—serious constitutional questions which, I might add, have never been responded to by proponents of the legislation.

If the Members are familiar with the adoption of Albrecht then they will understand where the remedy exceeds the problem, the law becomes unconstitutional. This is the situation we are now in when we trigger ourselves by a 1964 situation, leaving no way to escape from under it until 1985.

Whether we agree with this thing or not, we have got to recognize that the constitutional question is there. I have offered an amendment which I call the "election ballot clause" I have developed it extensively from time to time in the Record, and I have developed it in the portion of my remarks, which I will revise and extend.

But whether we agree or not, this is an important constitutional problem. It is important also that those covered jurisdictions of the South may have an opportunity to work their way out from under this act. The way this "ball out" will work is that those covered jurisdictions which have been "pure" under the 1960s and 1970s have a 60-percent turnout of minority voters, and that is substantial—and in addition to these two factors have an affirmative legislation program which meets the complaints which the chairman suggested, and which meets the complaints of the gentleman from California: all of those little things about registrars not being available, about voting places being in the wrong place—and an affirmative program to work its way out from under the act, will be given the opportunity to do so, and that will make the
June 2, 1975

CONGRESSIONAL RECORD—HOUSE

16257

15th amendment truly meaningful, which is what had been in mind in the beginning.

Mr. Chairman, the Congress is being called upon to extend and expand the Voting Rights Act of 1965, one of the most extraordinary and controversial pieces of legislation in the history of our great nation. In order to focus on the numerous deficiencies in the act and in H.R. 6219, the legislation to extend the act, it will be necessary to briefly recount the history and context, and to focus on some of the important provisions currently in the act and some of the provisions in H.R. 6219. With that background, the deficiencies of the legislation will be developed and affirmative solutions proposed to remedy these deficiencies.

HISTORY OF THE VOTING RIGHTS ACT OF 1965

The Voting Rights Act of 1965 was enacted to prevent State and local laws and practices from denying or abridging the right to vote to black citizens. While the act was designed to apply neutrally on its face, and was adopted during the election, the major purpose and effect of the legislation was to cover six Southern States and a large portion of a seventh State where the record indicated that voting discrimination was most rampant.

The act imposed extraordinary remedies upon the covered jurisdictions by suspending literacy tests and devices and by providing for Federal examiners and observers to monitor State and local elections. The act also provided that all voting changes would be subject to a Federal veto prior to their enforcement; while this provision was dormant during the early years of the act, Supreme Court decisions beginning in 1969 gave this provision a broad construction to apply to all changes even remotely affecting voting and stretched words in the statute to permit condemnation of any such change not submitted for review prior to its enforcement. Regardless of whether the change in fact had a discriminatory purpose or effect. To protect the rights of a few people, these remedies were imposed upon all of the people.

Progress in minority registration since shortly before passage of the act until the present has been substantial. But in evaluating the effectiveness of this legislation, it is important to note that much of this progress cannot be attributed to the act. In Virginia, for example, the great portion of the increase in minority voting came after the repeal of the poll tax; the statistic extracted from page 43 of the report of the Civil Rights Commission entitled "The Voting Rights Act: Ten Years After" indicating otherwise are erroneous. This misrepresentation was recently brought to my attention by the legal adviser of General Virginia, Mr. Andrew P. Miller, and the history of this incident serves to impeach the credibility of the entire report relied upon so heavily by members of the committee in drafting H.R. 6219, I will repeat verbatim crucial parts of Mr. Miller's letter:

DEAR CONGRESSMAN BUTLER: Having reviewed the Report of the Civil Rights Commission entitled H.R. 6219 (Report No. 94-198, 94th Cong., 1st Sess., May 8, 1975), I was struck by an error in the Committee's Report dealing with the proposed extension of the Voting Rights Act. The statement on page 6, to the effect that "black registration in Virginia actually occurred in Virginia as a result of the Voting Rights Act, is incorrect. Moreover, the chart and supporting text, in my opinion, show black and white registration rates before and after passage of the Voting Rights Act and for Virginia, inaccurate and quite misleading.

In the first place, that chart derives its pre-Act and post-Act registration figures for Virginia from different and inconsistent sources. The registration rates used in the chart for years after the passage of the Voting Rights Act are taken from figures developed by the Voter Education Project—the organization devoted to measuring black voting strength in the several Southern states and recognized its accuracy in doing so. For the years prior to the passage of the Voting Rights Act, figures completely ignores the figures arrived at by the Voter Education Project and instead uses estimates developed by other sources. It is apparent that the compilers of the chart, without so indicating, chose their figures from different sources in order to prove their preconceived point.

Second, not only does the chart select its pre- and post-Act registration figures from inconsistent sources, but the post-Act figures chosen for Virginia are incomplete and inaccurate on their face. Those figures are taken from estimates set forth in Appendix VII, Table 12, of the U.S. Civil Rights Commission's publication, Political Jurisdiction. A ten-page appendix reveals that the estimate for black registration in Virginia totally excludes the number of blacks registered in the City of Richmond. In other words, although the black voting-age citizens in that jurisdiction are included in calculating the total black voting-age population of the Commonwealth, not a single black citizen of that jurisdiction is counted separately. Moreover, the black registration figures used in the appendix are based, for a number of Virginia counties, on figures as of April 27, 1970, and when used by the Committee in its Report, omits a large number of black citizens who were actually registered in the voting districts.

The report's use of such a patently incomplete figure is especially difficult to understand in view of the fact that the Voter Education Project did publish figures showing black and white registration in Virginia in 1964, which filled that gap left by the Commission's estimate. Based on the Voter Education Project figures, 200,000 of Virginia's black citizens, or over 45.7 percent of the voting-age population of the Commonwealth, were registered to vote in 1964. In that same year, 55.9 percent of Virginia's white citizens were registered to vote. See Voter Education Project News Nos. 1 and 2 (Jan–Feb. 1970); 2 Voter Education Project News Nos. 1 and 2 (Apr–May 1970).

The Voting Rights Act of 1965 is also, at least according to its own terms, unconstitutional. The statement on page 5, to the effect that "the Voting Rights Act was enacted to prevent and permanently eliminate literacy tests and devices," is incorrect. Moreover, the chart and supporting text, in my opinion, show black and white registration rates before and after passage of the Voting Rights Act and for Virginia, inaccurate and quite misleading.

In the first place, that chart derives its pre-Act and post-Act registration figures for Virginia from different and inconsistent sources. The registration rates used in the chart for years after the passage of the Voting Rights Act are taken from figures developed by the Voter Education Project—the organization devoted to measuring black voting strength in the several Southern states and recognized its accuracy in doing so. For the years prior to the passage of the Voting Rights Act, figures completely ignores the figures arrived at by the Voter Education Project and instead uses estimates developed by other sources. It is apparent that the compilers of the chart, without so indicating, chose their figures from different sources in order to prove their preconceived point.

Second, not only does the chart select its pre- and post-Act registration figures from inconsistent sources, but the post-Act figures chosen for Virginia are incomplete and inaccurate on their face. Those figures are taken from estimates set forth in Appendix VII, Table 12, of the U.S. Civil Rights Commission's publication, Political Jurisdiction. A ten-page appendix reveals that the estimate for black registration in Virginia totally excludes the number of blacks registered in the City of Richmond. In other words, although the black voting-age citizens in that jurisdiction are included in calculating the total black voting-age population of the Commonwealth, not a single black citizen of that jurisdiction is counted separately. Moreover, the black registration figures used in the appendix are based, for a number of Virginia counties, on figures as of April 27, 1970, and when used by the Committee in its Report, omits a large number of black citizens who were actually registered in the voting districts.

The report's use of such a patently incomplete figure is especially difficult to understand in view of the fact that the Voter Education Project did publish figures showing black and white registration in Virginia in 1964, which filled that gap left by the Commission's estimate. Based on the Voter Education Project figures, 200,000 of Virginia's black citizens, or over 45.7 percent of the voting-age population of the Commonwealth, were registered to vote in 1964. In that same year, 55.9 percent of Virginia's white citizens were registered to vote. See Voter Education Project News Nos. 1 and 2 (Jan–Feb. 1970); 2 Voter Education Project News Nos. 1 and 2 (Apr–May 1970).

These figures show a 10.2 percent differential between black and white registration rates in Virginia in 1964, the year before the Voting Rights Act was passed. It should be noted that a differential of 11.5 percent between black and white registration rates still existed in the year following the passage of the Act. U.S. Bureau of the Census, Current Population Reports, Series P-20, No. 208 (1970).

If the Voter Education Project figures are employed—and a chart developed consistently using the figures developed by that organization—quite a different picture emerges. According to the Voter Education Project, between 1960 and 1964, prior to the passage of the Voting Rights Act, black registration in Virginia was almost doubled—from approximately 100,000 in 1960 to 200,000 in 1964, and then remained at that level. Thus, the Voting Rights Act was enacted, 200,000 blacks were registered in Virginia—an increase of just 2.5 percent. See Voter Education Project News Nos. 1 and 2 (Jan–Feb. 1970); 2 Voter Education Project News No. 4 (April 1968).

The original legislation enacted in 1965 was to expire in 1970 to the extent that it applied to covered jurisdictions supposed with the act and remained pure for 5 years, it could terminate the special coverage provisions by filing an action for a declaratory judgment to "null out." However, in 1970 (Cong. rec. July 8, 1970), the act for another 5-year period until 1975 by requiring a covered jurisdiction to prove a period of purity of 10 years rather than 5 years. Also new areas were covered based on the 1968 Presidential election.

The 1970 amendments also banned for 5 years literacy tests and devices on a nationwide basis and provided for uniformity in voter qualifications and the 18-year-old vote in new titles.

Now, in 1975, the temporary nationwide ban on literacy tests is set to expire. And, many jurisdictions originally covered in 1965 are on the verge of being able to escape the special coverage provisions by virtue of having been pure for 10 years. To cope with these two issues, H.R. 939 was introduced in the House of Representatives on January 14, 1975. That bill would have extended the special coverage provisions of the act for 10 years and would have made permanent the temporary nationwide ban on literacy tests and devices.

On January 27, 1975, H.R. 2148 was introduced to offer the administration's proposal to extend for another 5-year period the special coverage provisions and the nationwide ban on literacy tests and devices. Just prior to the commencement of hearings on these two measures, two bills were introduced to extend coverage of the Voting Rights Act, H.R. 3247, introduced by Ms. Joman, who would have covered jurisdictions, based upon voter turnout in the 1972 Presidential election, if an election was conducted
in English only in an area where more than 5 percent of the persons of voting age are of a single mother tongue other than English. H.R. 3501, cosponsored by Messrs. Roybal and Badillo, would have expanded coverage of the act to include persons of Spanish origin in a similar manner. Neither bill mandated bilingual elections as a remedy.

Hearings were held on these four bills for 13 days in February and March 1975. The hearings focused almost exclusively on the special coverage provisions of the act, the ban on literacy tests and devices, and the plight of Spanish-speaking persons. The testimony on American Indians, Asian Americans, and Alaskan Natives was nil.

Upon conclusion of the hearings, H.R. 5552 was introduced and cosponsored by Messrs. Bonito and Roybal and Ms. Jackson. The bill contained three titles. The first title extended the special coverage provisions of the act for 10 years and permanently banned tests and devices similar to H.R. 5553. The second title represented a compromise between H.R. 3247 and H.R. 3501 expanding coverage to the following "language minority groups": American Indians, Asian Americans, and Alaskan Natives with evidence of Spanish heritage. The third title was entirely new and was based on a draft submitted to members of the majority party, after the record was closed, by the Department of Justice. The new title established the basis for markup of this legislation in subcommittee.

On April 17, 18, and 23, 1975, the Subcommittee on Civil and Constitutional Rights marked up H.R. 5552 by adoption of six Democratic and two Republican amendments. Nine other Republican amendments were either defeated or withdrawn. H.R. 6219 was introduced on April 23, 1975, incorporating all of the successful subcommittee amendments to H.R. 5552 and an additional technical amendment. That bill was recommended to the full committee for favorable action by a partisan record vote.

On April 29, 30, and May 1, 1975, the full Committee on the Judiciary considered H.R. 6219. A Republican amendment, pertaining to the 18-year-old vote and the poll tax, was adopted unanimously, but 11 other Republican amendments were defeated, including the Butler ballot amendment which lost by virtue of a 17 to 17 tie vote. On May 1, 1975, the full Committee on the Judiciary voted 27 to 7 in a recorded vote to report H.R. 6219, as amended, for favorable action by the House. The report was filed May 8, 1975, with his committee supplemental views of 13 members of the committee running nearly 60 pages in length.

Thus the Congress is now called upon to write another chapter in the history of the Voting Rights Act. To evaluate whether H.R. 6219 is the proper chapter to write, a brief review of the act and the provisions of H.R. 6219 is in order.

HOW THE VOTING RIGHTS ACT WORKS

The original Voting Rights Act of 1965 consisted of 19 sections including the title. In 1970 titles II and III were added to deal with a nationwide ban on tests and devices, residency requirements, and to reduce the voting age to 18. All of these provisions are permanent except for section 291 which bans literacy tests and devices until August 6, 1975. Additionally, in the immediate future, the special coverage provisions of sections 4, 5, 6, and 8 in 1964 will be able to escape these provisions in reality after August 6, 1975. It will be necessary only to examine these provisions subject to a Section 4(b) out, under section 4(a) the court retains jurisdiction over the case for 5 years and the Attorney General may compel the court to reopen the case by making a motion 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.

Once a jurisdiction successfully bails out, under section 4(a) the court retains jurisdiction over the case for 5 years and the Attorney General may compel the court to reopen the case by making a motion 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.

Case law has established that if the court sustains the allegations, then the culpable jurisdiction is recovered under the act.

As previously described, the trigger of section 4 acts to cover a State or political subdivision, a term defined in section 14(c) to 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 division of State government which, on the basis of registration for voting, is that, a municipality, school district. Once the trigger is activated, such covered jurisdiction becomes subject to the extraordinary remedies of sections 4, 5, 6, and 8.

Section 4(a) effectively suspends the use of tests or devices within a covered jurisdiction by providing that no citizen shall be denied the right to vote because of his failure to comply with a test or device in such covered jurisdiction.

Section 5 has been interpreted by case law to require every covered jurisdiction to submit all changes in voting laws or practices to the U.S. District Court for the District of Columbia or to the U.S. Attorney General before such laws or practices may be enforced. The courts have liberally defined the scope of voting practices to include redistricting and even annexations. Once information concerning a change is submitted to the Attorney General, he has 60 days in which to object to the change. At the end of that period, which may be extended to receive additional information, if no objection has been interposed, the voting change may be put into effect.

A subsequent action to enjoin the change is not prejudiced by the Attorney General's failure to object. It is to be emphasized that only changes in voting practices different from those in force and effect when the jurisdiction was originally covered are subject to this process of "preclearance."

The preclearance requirement of section 5 imposes an enormous burden upon a covered State and its political subdivisions. An extraordinary example is one which occurred in Virginia. The city hall of the city of Fredericksburg was scheduled to have a hallway enlarged to make a alcove for a sitting area where the mayor would have required partitioning off approximately 3 feet of the registrar's office. The city was advised by the Department of Justice that this was a change subject to the preclearance provisions of the Voting rights act.
Rights Act, and the hallway could not be widened for 30 days. See hearings on H.R. 939 before the Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary, 94th Cong., 1st sess., serial No. 1 at 761 (1975)—ordinator referred to as "Hearings."

The record indicates that nearly 4,000 submissions have been made pursuant to section 5 of the act, in the past 4 years alone. Hearings at 182. Moreover, J. Stanley Pottinger, Assistant Attorney General, stated in a letter to subcommittee chairman Don Edwards dated May 6, 1975, that in 1974 it took the Department of Justice an average of 54 days to act upon section 5 submissions; submissions which received departmental objections took an average of 67 days to be considered due to requests for supplemental information. In the case of the State of Virginia, testimony at page 763 of the hearings indicated that 58 local election boards in addition to the State, that may require to process section 5 submissions. All of this evidence confirms that the burden of section 5 is substantial.

The fact that the Attorney General, inter alia, to certify that in his judgment the appointment of examiners is necessary to enforce the guarantees of the 15th amendment whereupon the Civil Service Commission must appoint as many examiners for the jurisdiction as it deems appropriate. The examiners prepare and maintain lists of persons eligible to vote and, pursuant to section 7, examine applicants in the covered jurisdiction concerning their qualifications for voting. Those applicants who are found to be qualified are given a certificate of qualification pursuant to section 7(c), and such person's name is placed on an eligibility list entitling him to vote unless a challenge to his qualifications is sustained pursuant to section 7(d).

Section 8 of the act authorizes the Attorney General to request, and the Civil Service Commission to appoint, observers in any covered jurisdiction in which examiners are serving pursuant to section 6. The observers are to observe whether those persons entitled to vote are being permitted to vote and to observe whether the voters are accurately tabulated. Such observers must report the results of their observations but they can take no on-the-spot action to correct or even object to election irregularities.

To recapitulate, the section 4(b) trigger subjects a covered jurisdiction to the denial of certain special remedies of suspension of tests and devices under section 4, preclearance of all voting changes under section 5, examiners under section 6, and observers under section 8.

Section 201 of the act temporarily bans tests or devices until 1975 in jurisdictions not subject to the special coverage provisions of section 4. This section, added as a part of the amendments of 1974, was intended to complement the ban on tests and devices in section 4 to effectuate a temporary nationwide ban of all tests and devices.

The definition of "test or device" is identical to the definition previously detailed in section 4(e) of the act. On its face, the definition is very broad, encompassing any requirement or precaution of purity a covered jurisdiction must meet to prevent persons adjudged mentally incompetent or otherwise ineligible from voting.

Before covering the provisions of H.R. 6219, one other section of the Voting Rights Act merits examination. Section 3 of the act permits a court to grant extraordinary remedies equivalent to the remedies found in sections 4, 5, 6, and 8 in any suit instituted by the Attorney General, under any statute, to enforce the guarantees of the 15th amendment. Although the Attorney General has never used section 3, the potential power that may be unleashed pursuant to it is enormous.

Section 3 applies in any court, in any State or subdivision, and it is a permanent provision. Although provision for a separate right of action is not created by section 3, the remedies far expand the traditional equitable remedies available to a Federal or State court. Aside from being able to authorize the appointment of examiners under section 3(a), the court may suspend the use of tests or devices, pursuant to section 3(b), for such period as it determines necessary. No bail out provision is available. Moreover, under section 3(c), the court can force a State or subdivision to preclear all voting changes, different from those in effect when the proceeding commenced, with the court or Attorney General for such period as the court deems appropriate. The court can thus retain jurisdiction, theoretically forever, to compel preclearance of all voting changes as the result of a suit based upon even a de minimis violation of the 15th amendment in any State or subdivision thereby.

THE EFFECT OF H.R. 6219

With the provisions of the present act firmly in mind, the effect of H.R. 6219 upon these provisions can now be evaluated.

As previously stated in tracing the legislative history, H.R. 6219 is divided into four titles. Title I extends the basic provisions of the act; titles II and III expand coverage of the act to language minority; and title IV contains miscellaneous provisions including the expansion of section 5 of the act to any voting rights suit brought by an aggrieved individual. An in-depth analysis of these provisions will prove useful.

Section 101 of title I extends the special coverage provisions of the act for another 10 years by changing the period of purity a covered jurisdiction must be able to prove it has not used a test or device from 10 years to 20 years. This will alter the section's provisions to freeze in covered jurisdictions who used tests or devices prior to 1965 for another 10 years.

Section 102 makes permanent the ban on all tests and devices in section 201 of the act by removing the temporary language. The effect of section 201 is made nationwide by eliminating the exclusion of jurisdictions otherwise covered under section 4(a).

The Title II of the act expands the special coverage provisions to cover language minority groups, a term defined in section 207 to mean persons who are American Indians, Asian American or Alaskan Natives or of Spanish heritage. Additionally, section 203 mandates bilingual or multilingual elections as a new and additional remedy.

The expected coverage is accomplished by the creation of a new trigger in section 202 which amends section 4(b) of the act based upon the voter turnout in the 1972 Presidential election. While the trigger is otherwise identical in its face with the 1964 and 1968 triggers, an important difference lies in the new definition of "covered device" set forth in section 203 of the bill.

Since all tests and devices were banned nationwide in 1970, a new trigger based upon the presence of a test or device as set forth in the 1972 Presidential election. The expected coverage is accomplished by the creation of a new trigger in section 202 which amends section 4(b) of the act based upon the voter turnout in the 1972 Presidential election. While the trigger is otherwise identical in its face with the 1964 and 1968 triggers, an important difference lies in the new definition of "covered device" set forth in section 203 of the bill.

In effect, if a jurisdiction had less than 50 percent of its population registered and voting in the 1972 Presidential election and that jurisdiction conducted an election only in the English language where more than 5 percent of the citizens of voting age residing therein are members of a single language minority group.

In effect, if a jurisdiction had less than 50 percent of its population registered and voting in the 1972 Presidential election and that jurisdiction conducted an election only in the English language where more than 5 percent of the citizens of voting age residing in the jurisdiction were separated distinct language minority groups, a term defined in section 201 to mean persons who are American Indians, Asian American or Alaskan Natives or of Spanish heritage, then such jurisdiction will become covered by the act.

In addition to being subject to the traditional special coverage remedies of the act, a jurisdiction covered by the new trigger will be forced to institute bilingual or multilingual elections as provided by section 203 of the bill. That section says that whenever a jurisdiction provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of
the applicable language minority group as well as in English.

Section 4 provides that an eligible single language minority group may have members speaking several languages, the reference to "language minority group is ambiguous. In the case of American Indians and Alaskan Natives, many languages and dialects are used. The statute would seem to require provisions of materials in each language since it would be impossible to select just one.

In the case of American Indians and Alaskan Natives, many languages are oral only. The statute seems to require the covered jurisdictions to provide orally in the minority languages any notice or form it may provide in English.

Under section 201 of title II, a covered jurisdiction may invoke the ball out provision of section 4(a) only if it can show that during the preceding 10 years its English-only election did not deny or abridge the right to vote on account of race, color, or national origin to a member of a language minority group and that in the past 10 years no final judgment has determined that a test or device was used within the covered jurisdiction with the proscribed effect. Although the de minimis language of section 4(d) will also apply, it seems impossible to show that the impact of an English-only election was de minimis within the terms of the act.

Thus since almost every covered jurisdiction will have a small number of language minority people who cannot read English, ball out will be practically impossible. Even if a covered jurisdiction can show the de minimis effect, section 4(d) seems to require the jurisdiction to provide for bilingual elections in order that the de minimis discrimination is not likely to occur in the future.

Section 204 of the bill amends section 5 of the act to incorporate a reference to new voting changes. Section 205 expands the coverage of section 3 and 6 of the act to include the 14th amendment as a source of protection. Finally, section 206 adds the protection of language minority groups throughout the act by prohibiting voting discrimination against such groups.

Title III of the bill incorporates none of the traditional remedies of the Voting Rights Act. Rather, it imposes bilingual elections upon covered jurisdictions in an identical manner to title II. However, the jurisdictions upon which this remedy is imposed are determined by a new more pervasive trigger than the trigger set forth in section 202, and under the section the trigger is only waivered until August 6, 1985. Section 301 covers any jurisdiction in which the Director of the Census determines that more than 5 percent of the citizens of voting age are members of a single language minority group which group has an illiteracy rate higher than the national average. The term "illiteracy rate" is defined to mean failure to complete the fifth primary grade.

A ball out of title III coverage is possible if the jurisdiction can show subsequent to coverage that the illiteracy rate of the minority group is no longer higher than the national average; but the original determination of the Director of the Census is not subject to direct judicial review.

Title III of the act contains many miscellaneous provisions. Section 401 expands access to section 3 of the act by allowing the court to impose section 3 remedies for the purposes of covering a separate statute by an "aggravated person" to enforce the guarantees of the 14th or 15th amendments with respect to voting. An "aggravated person" is any racial- or language-minority person injured by an act of discrimination. The existence of 42 U.S.C. 1983 (1970) and other civil rights statutes insures easy access to section 3 remedies by an aggravated person in any part of the country irrespective of whether that jurisdiction is covered by the act. That means that any court suit brought under the 14th or 15th amendment by an aggravated person can impose indefinitely the extraordinary remedies set forth in section 3, including preclearence.

Section 402 permits a court to award attorneys fees in a voting rights suit as part of the costs. Currently, only plaintiffs are awarded attorneys' fees as a part of the court costs by some courts.

Section 403 provides for the Director of the Census to conduct a voluntary survey to compile data only pertaining to race, color, and national origin, and whether a subject was registered or voted in the election surveyed. The bill also seems to provide that every person interrogated shall be fully advised of his right to full or refuse to answer information pertaining to race, color, or national origin, but criminal penalties require information to be furnished with respect to registration and voting.

Section 404 of the bill extends the anti-fraud provisions of section 11 of the act to cover elections for the delegates from Guam and the Virgin Islands. These offices were created subsequent to the 1970 amendments of the Voting Rights Act.

Section 405 of H.R. 6219 codifies a regulation enabling the Attorney General, for cause shown, to give affirmative expedited approval of a voting change submitted for preclearance prior to the expiration of the 60-day period. Since some changes must be implemented within 60 days, such a mechanism is essential.


Section 407 amends title III of the act to modify the provisions relating to the 18-year-old voting age in light of the amendments. Section 408 amends section 10 of the act with respect to the poll tax in light of court cases and the 24th amendment.

Now that the provisions of the act and H.R. 6219 have been reviewed in detail, it is appropriate to discuss the inferences in the present law and pending legislation.

While there are many technical deficiencies in the present legislation, only matters of substance merit discussion at this stage of the legislative process. Six areas of the legislation are particularly troublesome. The act provides no incentive for covered jurisdictions to improve their voting laws. Second, discriminatory laws existing prior to the date of coverage are immune under the act resulting in entrenched discrimination. Third, there is no meaningful way for some covered jurisdictions to bailout of the extraordinary special coverage provisions. Fourth, the actual coverage of the act, as extended by H.R. 6219, is both overbroad and underinclusive. Fifth, the method of effectuating an extension of the act for 10 years is inefficient. And sixth, the act does not prohibit a person from voting more than once in a Federal election.

The first three points will be elaborated upon. The first three points can be grouped together. Because of the recent holding in Virginia against United States that it may be unconstitutional. Since the Southern States are frozen in under the act until 1985, they have no incentive to improve their voting laws. Even if 100 percent of the minority citizens were registered and voted, the State could not escape from the onerous burdens of the Voting Rights Act. The extended jurisdiction must be submitted to the Attorney General in compliance with section 3, the incentive is to avoid the burden in producing the evidence needed to justify a change in voting by keeping old laws on the books. Hence, old laws, which may be discriminatory in purpose or effect, remain on the books; and the Attorney General cannot remedy this entrenched discrimination because he has power to review only voting changes different from those in force and effect on the date of coverage of the jurisdiction.

One other result of the failure of the act to provide a meaningful bailout provision with respect to the Southern States is that it may be unconstitutionally overbroad. A statute is overbroad when it punishes those who deserve to be punished as well as those who do not. The Supreme Court in the original constitutional challenge to the Voting Rights Act, in South Carolina against Katzenbach, noted that the bailout saved the statute from being overbroad. But now, with the bailout of section 4(a) being a nullify with respect to
South, the question of overbreadth remains ripe for litigation. The argument, quite simply, is that once States no longer deny or abridge the right to vote in violation of the fourteenth or fifteenth amendments it is proper to impose the extraordinary remedies of the Voting Rights Act upon those States evaporates. In South Carolina against Katzenbach, the Court stressed that only a persuasive and not an absolute hurdle is required to impose the remedies and elaborate remedies that infringe upon areas traditionally left to the States. In his eloquent dissent, Mr. Justice Black thought that the remedies were unconstitutional in distorting the balance of federalism to leave the States little more than conquered provinces. Thus, unless a source of power within the Constitution can support the imposition of these severe remedies, other provisions of the Constitution mandate their unconstitutionality. In this context, prior unequal educational opportunities and ineffective remedies for voting discrimination and is not in and of itself a source of power to warrant these remedies.

The findings of discrimination necessary for an extension of this act are the same as if these were an original enactment. It is doubtful that there is sufficient evidence on the record to war­rying continued when in fact no discrim­ination exists, the act would be uncon­stitutionally overbroad. But by making the presence of voters who received an inferior education a bar to an effective bail out, the act fails to provide a mean­ingful and constitutionally necessary bail out provision.

People who received an inferior education on the basis of race are voters in every State in the Nation. Literacy tests have been banned nationally since 1970 and in the South since 1968. It is simply not progress to extend this act based upon occurrences prior to 1965.

Even the original act focused on a 5-year trigger period running back to August 6, 1955. Yet, this extension moves into uncharted territory forcing States to justify tests imposed back as long ago as August 6, 1955.

For these reasons, the present act, as extended by H.R. 6519, stands on an unsound constitutional footing.

Also, as a matter of policy, the act is defective. By the admission of its drafts­man, it is underinclusive failing to cover a tremendous territory leaving States and minority citizens. Also, if Anglos vote at levels above 50 percent, a low minority vote may completely be overshadowed in an election. Various 50-percent test which measures the total vote turnout.

At the same time, the act is overin­clusive in covering jurisdictions in which no discrimination exists. This forces many States to spend time and the money to come to Washington, D.C. to bail out. Alaska has twice sent legal representatives one-fourth of the way around the world to successfully bail out. Another group of jurisdictions, such as Honolulu, Hawaii, have never expended the re­sources to bail out; unfortunately, many of those jurisdictions also have not both­ered to come to bail out. The constitutional nature of the provisions of section 5. The result may be that all of their voting changes en­acted after coverage without the requisite submission are void or at least voidable.

Thus the trigger mechanism of the act, as extended, is defective in its cov­erage.

Testimony during the hearings also made clear that the method of extending the special coverage provisions of the act as accomplished by H.R. 6219 is ineffi­cient. The method of extension, as pre­viously discussed, is to lengthen the pe­riod of purity necessary to ball out from 10 years to 20 years. While this method will keep those southern jurisdictions originally covered in 1965 under the act until 1985, it is to the admission of its drafts­ment. It is doubtful that there is any test or device is used by a state to disenfranchise a citizen, that the State will be kept under the act until 2004. This is too steep a price to pay especially if a less restrictive means of accomplish­ing a 10-year extension is available.

Finally, neither the bill nor the act prohibits a person from voting more than once in a Federal election. While section 3 of the substitute prohibits a person to validly register in more than one voting location; the law breaking any law. At least six States have no law prohibiting registration in more than one State in the most recent general Federal election. Similarly, the trigger is tripped if the Director of the Census determines that less than 50 percent of eligible citizens of Spanish heritage voted in the last general Federal election where such citi­zens comprise more than 5 percent of the eligible citizens of voting age within the State or political subdivision. Thus the trigger is geared to the turnout of blacks or browns in the most recent general Federal election.

The rationale for such a trigger is readily apparent. It is more rational to determine whether minority citizens are currently being denied their voting rights and if they are, that the trigger can be applied to the group as a whole. The trigger only penalizes election laws in those States and small towns to take the most extreme Federal election.

Thus the substitute does much more than amend the coverage provisions of the Voting Rights Act to remedy asubseteq of the voting rights act, rather than focusing on historical circumstances. Thus the substitute is to remedy and eliminate entrenched discrimination by granting a covered jurisdiction an incentive to encourage minority voter turn­out and to reform outdated election laws. The amendment accomplishes this goal by changing the trigger mechanism of section 4(b) to operate prospectively based upon minority voter turnout in bi­annual general Federal elections. At the same time, progressive measures of H.R. 6219 are incorporated into the substitute to provide a positive package.

Section 2 of the amendment extends the current act until after the 1976 Presi­dential election as an interim provision. If this time frame expires, and effective February 6, 1977, the trigger mechanism will be revised pursuant to section 3 of the substitute.

Section 3 of the substitute is the heart of the amendment. It revamps the trigger in section 4(b) to operate in a State or political subdivision if less than 50 percent of the black citizens of voting age eligible to vote, very likely comprised more than 5 percent of the voting age population, voted in the most recent general Federal election.

Similarly, the trigger is tripped if the Director of the Census determines that less than 50 percent of eligible citizens of Spanish heritage voted in the last general Federal election where such citi­zens comprise more than 5 percent of the eligible citizens of voting age within the State or political subdivision. Thus the trigger is geared to the turnout of blacks or browns in the most recent general Federal election.

The substitute does much more than amend the coverage provisions of the Voting Rights Act to remedy asubseteq of the voting rights act, rather than focusing on historical circumstances. Thus the substitute is to remedy and eliminate entrenched discrimination by granting a covered jurisdiction an incentive to encourage minority voter turn­out and to reform outdated election laws. The amendment accomplishes this goal by changing the trigger mechanism of section 4(b) to operate prospectively based upon minority voter turnout in bi­annual general Federal elections. At the same time, progressive measures of H.R. 6219 are incorporated into the substitute to provide a positive package.

Section 2 of the amendment extends the current act until after the 1976 Presi­dential election as an interim provision. If this time frame expires, and effective February 6, 1977, the trigger mechanism will be revised pursuant to section 3 of the substitute.

Section 3 of the substitute is the heart of the amendment. It revamps the trigger in section 4(b) to operate in a State or political subdivision if less than 50 percent of the black citizens of voting age eligible to vote, very likely comprised more than 5 percent of the voting age population, voted in the most recent general Federal election.

Similarly, the trigger is tripped if the Director of the Census determines that less than 50 percent of eligible citizens of Spanish heritage voted in the last general Federal election where such citi­zens comprise more than 5 percent of the eligible citizens of voting age within the State or political subdivision. Thus the trigger is geared to the turnout of blacks or browns in the most recent general Federal election.

The substitute does much more than amend the coverage provisions of the Voting Rights Act to remedy asubseteq of the voting rights act, rather than focusing on historical circumstances. Thus the substitute is to remedy and eliminate entrenched discrimination by granting a covered jurisdiction an incentive to encourage minority voter turn­out and to reform outdated election laws. The amendment accomplishes this goal by changing the trigger mechanism of section 4(b) to operate prospectively based upon minority voter turnout in bi­annual general Federal elections. At the same time, progressive measures of H.R. 6219 are incorporated into the substitute to provide a positive package.

Section 2 of the amendment extends the current act until after the 1976 Presi­dential election as an interim provision. If this time frame expires, and effective February 6, 1977, the trigger mechanism will be revised pursuant to section 3 of the substitute.

Section 3 of the substitute is the heart of the amendment. It revamps the trigger in section 4(b) to operate in a State or political subdivision if less than 50 percent of the black citizens of voting age eligible to vote, very likely comprised more than 5 percent of the voting age population, voted in the most recent general Federal election.

Similarly, the trigger is tripped if the Director of the Census determines that less than 50 percent of eligible citizens of Spanish heritage voted in the last general Federal election where such citi­zens comprise more than 5 percent of the eligible citizens of voting age within the State or political subdivision. Thus the trigger is geared to the turnout of blacks or browns in the most recent general Federal election.

The substitute does much more than amend the coverage provisions of the Voting Rights Act to remedy asubseteq of the voting rights act, rather than focusing on historical circumstances. Thus the substitute is to remedy and eliminate entrenched discrimination by granting a covered jurisdiction an incentive to encourage minority voter turn­out and to reform outdated election laws. The amendment accomplishes this goal by changing the trigger mechanism of section 4(b) to operate prospectively based upon minority voter turnout in bi­annual general Federal elections. At the same time, progressive measures of H.R. 6219 are incorporated into the substitute to provide a positive package.

Section 2 of the amendment extends the current act until after the 1976 Presi­dential election as an interim provision. If this time frame expires, and effective February 6, 1977, the trigger mechanism will be revised pursuant to section 3 of the substitute.

Section 3 of the substitute is the heart of the amendment. It revamps the trigger in section 4(b) to operate in a State or political subdivision if less than 50 percent of the black citizens of voting age eligible to vote, very likely comprised more than 5 percent of the voting age population, voted in the most recent general Federal election.
far as it encourages a high minority voter participation, one goal which the present act fails to pursue. Also it encourages covered jurisdictions to take whatever action is necessary to achieve such a turnout. Thus all-female ballots, all-black lots, at large elections, or other measures requested by the minority community.

To prevent the trigger from being unconstitutionally overbroad, a bailout provision is included by amending section 4(a) of the act to determine whether the covered jurisdiction has any voting provision is included by amending section 4(a) of the act to determine whether the covered jurisdiction has any voting discrimination against any racial or national origin. Though a jurisdiction is subject to coverage based upon constitutionally overbroad, a bailout can only operate if the State subject to a finding in H.R. 6219 which tolerates discrimination against other ethnic groups, as is done with respect to the bailout provision in section 4(a). The court extended the doctrine of Gaston County v. United States, 395 U.S. 385 (1969), to hold that the previous existence of inferior schools for blacks would conclusively cause the applicability of any litigant's burden of proof to result in the denial or abridgment of the right to vote on account of race or color.

Section 5 through 14 of the amendment replicate various provisions of H.R. 6219 designed to make permanent the ban on tests or devices, to provide attorney's fees to the prevailing party, and to make certain technical revisions in the act.

Section 7 of the substitute enlarges the survey provisions of section 403 of H.R. 6219 to ascertain voting statistics on a national scale rather than only in the covered jurisdictions. Also the survey makes mandatory the divulging of racial information, and elicits citizen information as an incentive to reform their election laws. Moreover, since the Attorney General can only review changes in voting practices, present discriminatory laws will remain invulnerable to attack resulting in entrenched discrimination.

Mr. Chairman, to place my bailout amendment in the nature of a substitute to H.R. 6219, is the failure to provide the presently covered jurisdictions with a meaningful bailout mechanism or with any other incentive to reform their election laws. To remedy these deficiencies I have drafted an amendment called the "impossible bailout." Mr. Chairman, to place my bailout amendment to H.R. 6219 in perspective, a complete amount of its evolution should prove useful.

The need for a meaningful bailout device was first set forth in South Carolina v. Katzenbach, 383 U.S. 301, 331 (1966). The Court noted that the Voting Rights Act of 1965 provided a termination mechanism to prevent it from being unconstitutional overbroad. A statute is unconstitutional if it unjustifiably punishes those who do not deserve to be penalized as well as those who do. While the 15th amendment can legally warrant a bailout in section 4(a) of H.R. 6219, while failing to condemn discrimination against other ethnic groups, as is done with respect to the bailout provision in section 4(a). The court extended the doctrine of Gaston County v. United States, 395 U.S. 385 (1969), to hold that the previous existence of inferior schools for blacks would conclusively cause the applicability of any litigant's burden of proof to result in the denial or abridgment of the right to vote on account of race or color. Since the bailout in section 4(a) cannot operate if the State subject to a finding in H.R. 6219 which tolerates discrimination against other ethnic groups, as is done with respect to the bailout provision in section 4(a). The court extended the doctrine of Gaston County v. United States, 395 U.S. 385 (1969), to hold that the previous existence of inferior schools for blacks would conclusively cause the applicability of any litigant's burden of proof to result in the denial or abridgment of the right to vote on account of race or color. Since the bailout in section 4(a) cannot operate if the State subject to a finding in H.R. 6219 which tolerates discrimination against other ethnic groups, as is done with respect to the bailout provision in section 4(a). The court extended the doctrine of Gaston County v. United States, 395 U.S. 385 (1969), to hold that the previous existence of inferior schools for blacks would conclusively cause the applicability of any litigant's burden of proof to result in the denial or abridgment of the right to vote on account of race or color. Since the bailout in section 4(a) cannot operate if the State subject to a finding in H.R. 6219 which tolerates discrimination against other ethnic groups, as is done with respect to the bailout provision in section 4(a). The court extended the doctrine of Gaston County v. United States, 395 U.S. 385 (1969), to hold that the previous existence of inferior schools for blacks would conclusively cause the applicability of any litigant's burden of proof to result in the denial or abridgment of the right to vote on account of race or color.
CONGRESSIONAL RECORD—HOUSE

June 2, 1975

Section 5—preclearance—and provides that a covered jurisdiction may be relieved of the burden of this extraordinary remedy by filing an action for declaratory judgment against the United States in the U.S. District Court for the District of Columbia and establishing that three sets of circumstances exist.

The first of these three circumstances is set forth in section 1 as follows:

(1) The Director of the Census has determined that less than sixty per cent of the eligible citizens of voting age of minority race or color or national origin (term that includes all persons of Asian or Pacific Island origin residing therein on the date of the most recent general election for President or Members of Congress) or persons who were citizens, but ineligible to vote, in that State or political subdivision; and

Section 1 was also amended subsequent to markup in the full committee to focus on eligible citizens residing in the relevant State or political subdivision, the prior focus on persons included illegal aliens who were not citizens, and felons and idiots who were citizens, but ineligible to vote. The current focus is the most substantial measure—the percentage of eligible citizens of voting age residing within the jurisdiction. Voting domicile is to be determined by local or State law.

Section 1 of the bailout currently provides that the State or political subdivision, in order to obtain a declaratory judgment, must prove that the Director of the Census has certified that less than sixty per cent of the eligible citizens of voting age of minority race or color or national origin (term that includes all persons of Asian or Pacific Island origin residing therein on the date of the most recent general election for President or Members of Congress) were registered to vote and voted in that election. This section was originally drafted to test whether or not sixty per cent of the voting age population was registered and voted and whether there was any substantial statistical disparity evidencing a denial or abridgment of the right of qualified persons to vote. Although this section received support in the hearings, Representative Badillo suggested, in subcommittee, that the substantial statistical disparity language was vague and that "race or color" did not embrace the expansion of the act to language minorities.

Prior to the full committee meeting, the section was redrafted to measure whether sixty per cent of the general population of voting age were registered and voted and to test whether the percentage of persons of minority race or color or national origin (term that includes all persons of Asian or Pacific Island origin residing therein on the date of the most recent general election for President or Members of Congress) were registered and voted and whether there was any substantial statistical disparity evidencing a denial or abridgment of the right of qualified persons to vote. Although this section received support in the hearings, Representative Badillo suggested, in subcommittee, that the substantial statistical disparity language was vague and that "race or color" did not embrace the expansion of the act to language minorities.

To cure the problems of vagueness, the present language test in absolute terms whether minorities register or vote less than sixty per cent. To ensure the validity of the statistics, the Director of the Census is the only source that may make such a determination. Of course, as indicated so eloquently by my colleague from California, Mr. Wills, sixty per cent is not a hard number. Rather than waste the time and money it would take to zero in on exactly sixty per cent, with customary 95 per cent confidence, asserting whether that level has been reached by producing clear and convincing evidence should prove sufficient to implement the policy of this legislation. Is it true that if the Director of the Census statistically determines a jurisdiction to have at least 60 per cent minorities voting, that in reality he is determining that approximately 75 per cent of the total voting age population is not lower than 60 per cent.

Section 2 of the impossible bailout amendment was originally inspired by Representative from Arizona, Mr. J. Stanley Pottinger. He said, at 791 of the hearings on H.R. 939 before the Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary, 94th Congress, First Session, Serial No. 1 (1975) the following:

It seems to us that it might be worth a time and effort for the court to pursue whether or not similar standards can be drawn along the lines that I am urging. That is, it is possible to state that if there has been for a period of 5 years no literacy tests or devices which were in use in the given jurisdiction, whether State or subdivision of it, no outstanding objections by the Attorney General under section 5, no judgment of the court stating the political subdivision or State has violated either the 15th amendment or any implementing legislation under the 15th amendment, the literacy tests, and devices of the States have actually been repealed, not simply put in, and there have been time that these admissions of the like, if all of those things that are now covered by the act can be shown to have been compiled with, I suppose it would be difficult to argue that the State has not freed itself of the obligations under the act as other States have.

His testimony was supplemented by a letter which recommended elements that a bailout should include. First, during the 5 years prior to the filing of the bail­out suit there must have been no final judgment of a Federal court ruling that such political subdivision or State have violated the 15th amendment or any implementing legislation. Second, during the 5 years preceding the filing of the action, no change in any voting practice must have been put into effect without a timely filing in compliance with section 1. Third, during the 2 years preceding the filing of the action, there must have been no section 5 denial of declaratory judg­ment or objective to such political subdivision or State or political subdivision must have repealed all tests or devices and all changes in voting which were objected to must have been withdrawn. Lastly, during the 5 years preceding the filing of the action, no examiners must have been sent into or remained within the State or political subdivision pursuant to section 6.

These five criteria, as modified, were offered as a separate amendment in subcommittee and also offered as section 2 of the Impossible Bail Out Amendment. One modification, originally made, was to change the third requirement to prohibit substantial objections within the previous 5 years. This was added by Representative from California, Mr. Wills, during consideration of the amendment in the subcommittee. One provision of this section 2(A) of the current amendment incorporates the original language suggested by the Assistant Attorney General for the Civil Rights Division of the Department of Justice, thereby reme­dying the problem of vagueness.

The first requirement enumerated by Mr. Pottinger, relating to final judgments of a Federal court, was attacked on two grounds. Representative Fawcett noted that since the act was being
expanded to cover language minorities that this restriction should apply to judicial and all other measures adopted as well. The amendment was adopted in full committee and is now reflected in section 2(b)(a).

The second objection, voiced by Representative Drinan, was that other evidence of discrimination including nonfinal judgments such as temporary restraining orders should be evaluated. A similar objection was voiced by Representative Frank, and he urged the inclusion of the definition of "in the opinion of the full committee, in compliance with the preclearance provisions. At the suggestion of Assistant Attorney General J. Stanley Foltzinger, the word "of" was changed to "in" to assure that the voting changes in such State would include changes made by subdivisions. Section 2(b)(c) requires the State to prove at all times during the past 5 years that tests or devices have been repealed and that all changes once objected to, have been repealed or the objection withdrawn. The Foltzinger amendments to the objection as an alternative to repeal of the change was added after committee markup to deal with cases where, at the suggestion of the Attorney General, a voting change is modified rather than repealed, and the objection withdrawn. Lastly, section 2(b)(d) directs that, in the past 5 years, no examiners have been sent into or maintained within covered jurisdictions pursuant to section 6; while examiners can be authorized pursuant to sections 3 and 6, it is clear that they can be appointed only by the State. The provision was added after committee markup to clarify that the intention of the section was to apply to the maintenance of examiners within the jurisdiction was added after committee markup to clarify that the intention of the section was to apply to the maintenance of examiners within the covered jurisdiction.

The final set of circumstances is set forth in section 3 as follows:

(a) An opportunity for every eligible citizen of voting age residing within such political subdivision to register during evening hours on a reasonable number of days each month and on a reasonable number of Saturdays and Sundays of each month;

(b) a reasonable public notice of the opportunity to register;

(c) a place of registration and a place for voting at a location with access to and not unreasonable distance from the place of residence of every eligible citizen of voting age residing within such State or political subdivision;

(d) reasonable provision for minority representation among election officials at polling places;

(e) apportionment plans which assure equal voter representation;

(f) apportionment plans which avoid submergence of cognizable racial or minority groups;

(g) removal of all unreasonable financial or other barriers to candidacy; and

(h) adequate opportunity for minority representation in all local governing bodies.

These provisions are designed to cover the following problems:

(1) Problems of registration, candidacy, and voting, including the opportunity to register and the opportunity to vote including the opportunity to register during evening hours on a reasonable number of days each month and on a reasonable number of Saturdays and Sundays. The word was retained in two instances to give flexibility to the covered jurisdiction since it is unreasonable to force the State to allow registration 24 hours a day every day of the month.

Section 3(d) provides for a reasonable public notice of the opportunity to register. Since a reasonable method of publication will vary depending upon the nature of the election district, the U.S. District Court for the District of Columbia is vested with discretion to determine compliance. Since over 60 percent of eligible minority citizens must in fact register to satisfy section 1, it is unlikely that this section can be abused to deny minority voting rights. Rather, it will encourage jurisdictions to inform the citizens of their rights and it must be implemented to effectuate that goal. All of the requirements of section 3 require affirmative implementation; however, neither section 1 nor section 3 require any specific form of implementation such as postcard registration.

Section 3(c) originally provided for reasonable locations of places of registration and voting within reasonable distances of all persons of voting age residing within the jurisdiction. Again, after criticism from
Representatives Badillo, Drennan, and Jordan, that the use of the word "reasonable" caused problems of vagueness, this section was re drafted into its present form prior to markup at the full committee. This section immediately indicates that eligible minority citizens will not have to face the difficulty of being forced to vote in an inaccessible or far distant location. The full committee report notes, for example, that an eligible minority citizen living 3 miles from the nearest polling place in an area, it may be unreasonable in a densely populated area. The use of the word "places" was changed to the singular subsequent to full committee markup to dispel the possible interpretation that more than one place of registration or voting would be required for any citizen. The section merely insures that a person will not be inconvenienced by the location of a place of registration or voting to which he is assigned.

Section 3(d) insures that the law provides and has been implemented to effectuate the reasonable voting representation minorities as election officials in precincts where minorities are registered. Although the word "reasonable" is vague, it is the best term available in light of the great variations in precincts related to the number of election officials to local methods of selection. The judges reviewing the actual practice will be able to determine if a good faith effort has been made to achieve an equitable representation among election officials.

Sections 3(e) and 3(f) are new, representing the essence of an amendment offered by my colleague from Arkansas (Mr. Thompson) and passed by the full committee. These sections respond to a critique of the amendment by Representative Dow Edwards that oversight in the areas of reapportionment and gerrymandering was not adequately provided for. These sections insure that apportionment plans have been implemented to assure equal voter representation in compliance with the Act's amendment, and that such apportionment plans avoid the submergence of cognizable racial or minority groups. This will assure that minority voting strength is not minimized until at least 1986 in light of the fact that the first possible bailout could occur in 1976 and the court would retain jurisdiction for 10 years.

Section 3(g) provides for the removal of all unreasonable financial or other barriers to candidacy. This sweeping provision will encourage jurisdictions to remove all barriers to candidacy as documented by the U.S. Commission on Civil Rights. While this language was originally worded to prohibit barriers to minority candidates, it was changed following full committee markup to dispel the notion that minorities were to receive special treatment or that barriers were to be tolerated against nonminority candidates. The section is cast in terms of reasonability to preserve the right of the States to maintain nominal filing fees to cost voters and to keep reasonable budgetary restraints in election practices, as long as in forma paauperus filings or other reasonable methods are available to enable a poor candidate to qualify.

The final requirement which the covered jurisdiction must meet is in section 3(h). The laws must be implemented to effectuate an adequate opportunity for minority representation in all local governmental bodies where eligible minority citizens of voting age exceed 25 percent of the eligible voting population. This provision was drafted in response to objections during the subcommittee markup, to the effect that the bailout would not preclude at large voting, numbered posts, campaign regulations, and other devices from preventing minority candidates from being elected. Although election of minority candidates cannot be guaranteed, this provision will prevent any laws within the covered jurisdiction from denying minority candidates an equitable opportunity to be elected in areas where minorities represent a significant proportion of the eligible citizens of voting age. While no specific form of election is forbidden or mandated, the court will be able to insure that fair play will prevail.

As was done throughout the amendment, the focus was changed from "permitting a reopening of the action" to "eliminating" whatever might be residing within the jurisdiction to provide a more germane measurement.

The next paragraph of the amendment provides for an advisory opinion to be given by the Attorney General for consent decree to be entered if the Attorney General is satisfied that the covered jurisdiction has complied with each of the elements of the amendment. To prevent a jurisdiction from reenacting discriminatory laws after it balls out, the court retains jurisdiction during a probation period of 10 years. If any discriminatory voting practice is used with the purpose or effect of denying or abridging the right to vote on account of race or color or in contravention of the guarantees set forth in that section, the Attorney General can sue and the court will remain in control of the situation. The criteria incorporated in the implementation of the Act are comprehensive in scope and effectuate an adequate opportunity for minority candidates to qualify for and hold elected office.

The criteria incorporated in the impossibility bailout amendment are rigorous and complete. Several persons have commented that the refined language of the Act is incomparable to the original. Recently, Chairman Dow Edwards requested Assistant Attorney General J. Stanley Pottinger to assess the impossible bailout amendment. Mr. Pottinger responded in a letter to Chairman Edwards dated May 6, 1975, in part as follows:

It is my view that any ball out amendment, such as the one which I think has been made to the Act, and require proof of nondiscrimination in voting beyond nonce of literacy tests or devices. The ball out provision of the Act as passed by the full committee in the Senate would be consistent with the Act and passed by the full committee in the Senate.

Mr. Pottinger did state that in his opinion the present ball out was adequate, but he went on to note:

It is also my judgment that if the Congress nonetheless deems it appropriate to further amend the Act, the ball out along the lines of that proposed by Congressman Butler is consistent with the goals of the Act.

Lastly, after recommending two changes which were in fact, subsequently incorporated into the amendment, Mr. Pottinger said:

If these changes were made in the Butler ball out provision, it is my judgment that it would be stringent enough (particular in light of the fact that the court retains jurisdiction for 10 years) to ensure that only those jurisdictions which, in fact, have discrimination which was root out the evils which the Act is designed to prohibit, could ball out.

Mr. Chairman, I am grateful that a person opposed to letting the Southern States out from under the act has the integrity to sincerely state that in his opinion the final amendment is stringent and consistent with the goals of the act. Unfortunately, other opponents of the amendment have adopted a strategy to divert debate from the major issue of whether a State that does not discriminate should be permitted to ball out.

Although the record is clear that every reasonable effort has been made to accommodate the suggestions of Members who wish to see the Southern States reform their election laws in order to regain the sovereignty that is due them under our Constitution, those who oppose the impossible bailout amendment and any other attempt to let the South escape this so-called Second Reconstruction prior to 1983. In a "Dear Colleague" letter dated May 30, 1975, Subcommittee Chairman Don Edwards stated five reasons for rejecting the impossible bailout amendment which can be summarized as follows:

First, no new bailout is needed since the bailout under the current act is adequate;
Second. New standards in the impossible bailout amendment are either vague or undefined.

Third. Many of the criteria proposed are so lenient that they severely weaken the act.

Fourth. The application of section 5 of the act does not prevent progressive changes in covered jurisdictions; and

Fifth. The amendment suffers from a series of serious drafting problems and ambiguities too numerous to address in detail.

These five charges are to my knowledge the strongest theoretical reasons for rejecting the impossible bailout amendment that the opponents of the amendment can muster. Yet, while each charge may be superficially devastating on its face, a reasoned analysis will reveal these objections to be illusory.

The first assertion is that the bailout currently in section 4(a) of the act is adequate. While the bailout in the present act has worked to allow jurisdictions outside the South to bailout, it is totally ineffectual with respect to the Southern States. As previously noted, the recent holding in Virginia v. United States, 386 F. Supp. 1316 (D.D.C. 1974), and the less recent holding in Gaston v. Commonwealth of Virginia, 390 S. Ct. 1290 (1975), extends the Gaston doctrine and presumes that any literacy test operates in a discriminatory manner in any State which had inferior school systems for blacks. It is not unreasonable to assume that this extension of the Gaston rationale will be further extended to bar a successful bailout by any jurisdiction, a State which has had additional opportunities presumably reside in every State in the Nation. But even if the Gaston rationale is limited to the South, it renders the bailout in the present act completely inadequate. If a Southern State has all of its black citizens registered, voting, and even elected to office, there is no way for the State to bailout unless the courts are to strike down the current bailout, if extended by H.R. 6219, will focus on events as long ago as 1955 to determine whether a State can escape from the act. Although it is true that the bailout is irrational, unfair, and possibly unconstitutional, it is absurd to contend that it is “adequate” unless re-construction legislation, which per se freezes in Southern States, is “adequate.”

The second assertion is that the standards in the Impossible bailout amendment are either vague or undefined. The language in Chairman DowEswarens’ letter also claims that—

[T]here is not one shred of evidence supporting the relevance of any of the objective standards proposed by Mr. Butler’s bailout (sic) amendment.

However, as previously detailed, the record indicates that several Members and the Assistant Attorney General of the Civil Rights Division suggested many component parts of the impossible bailout amendment. The Report of the U. S. Civil Rights Commission entitled “The Voting Rights Act: Ten Years After” has also been shown to be the source for several of the criteria. This testimonial evidence in support of the amendment is substantial. While many of the suggestions contributed to curing the problem inepit in using adjectives such as “adequate” it was also recognized that such adjectives are appropriate in cases where the inherent diversity of living patterns and sometimes even the acts themselves makes it impossible to set precise standards unsuitable for statutory enumeration.

Moreover, legislation that is susceptible to interpretation by the liberal U.S. District Court is not enough. The impossibility of establishing a jurisdiction is anathema to the covered jurisdictions. History indicates that overly precise standards can be complied with to the letter while avowing in spirit. Thus, the objection that the standards in the impossible bailout amendment are vague is more apparent than real.

The third assertion is that many criteria are so lenient that they weaken the act. The only examples given are that the 60-percent registration rate for minorities is too low and that the required period of purity, ranging from low as 2 years to high as 20 years, is inconceivable. It is inconceivable that a 60-percent registration rate for minorities is more lenient than the 50-percent registration rate for the entire population is required. Moreover, the focus on registration rates is only for historical continuity; when the statutory registration rate is equivalent to the statutory voting rate, only the voting rate will be determinative; that is, if greater than 60-percent minority citizens vote, then a fortiori, at least 60-percent minorities must be registered. Furthermore, the entire purpose of the Voting Rights Act is to encourage minority voting. Registration, as an end in itself, is irrelevant once actual voter participation is increased. Thus, the registration criterion does not weaken the act, and in any event, in light of the 60-percent voting standard, it is superfluous.

The criticism that a 2-year period of purity is too short to insure that long-range voting improvements have actually been made is either naïve or disingenuous. Only one of the five components of the period of purity is for 2 years with respect to a covered jurisdiction. The 2-year period relates to objections having been interposed by the Attorney General, and, as previously noted, it was based upon a recommendation of the Attorney General of the Civil Rights Division of the Department of Justice. Since the standard prohibits a bailout if any objection has been interposed, it is obvious that a period of purity longer than 2 years with respect to this component would be unduly burdensome.

Moreover, it is the impossible bailout amendment as a whole which insures long-range voting improvements; while any portion of the amendment can be attacked in any submission, no matter how trivial, it is obvious that a period of purity longer than 2 years with respect to this component would be unduly burdensome.

Fourth. The application of section 5 of the act does not prevent progressive changes in voting laws by the covered jurisdictions. While it is true that section 5 does not absolutely prohibit progressive changes, it cannot be denied that the preclearance requirements hinders and discourages a jurisdiction from making voting changes. The burden of preclearance in and of itself has been established on the record; it is misleading for Representative Eswaren to write that “the State (sic) of Virginia now employs only one person part-time to take care of the hearings.”

While the State employs only one person, every local voting jurisdiction in the Commonwealth also employs at least one person to file submissions pursuant to section 5 of the Voting Rights Act. Thus hundreds and perhaps thousands of people throughout the South are caught up in the web of paperwork necessary to comply with section 5 and the numerous regulations promulgated thereunder.

The final criticism of the impossible bailout amendment stated in the letter is based upon a series of serious drafting problems and ambiguities “too numerous to address in detail.” Unfortunately, the letter fails to even generally advert to either a drafting problem or an ambiguity. Rather than justify the policies of the 1965 act, the impossible bailout amendment reinforces one policy of the act, namely, that jurisdictions which in fact do not discriminate should not be covered by the act.

Mr. Chairman, this discussion has been lengthy, but it was necessary to reveal the substance and merit of the impossible bailout amendment. The amendment will encourage States and political subdivisions to modernize their voting laws and to encourage minority voter participation. Such an incentive is necessary and salutary; I urge my colleagues to adopt this amendment to cure the deficiencies of the Voting Rights Act. A true amendment will cure many, but not all, of the other deficiencies of the act previously enumerated. A brief discussion of five amendments will reveal the formulation of practical solutions in many areas.

OTHER PROPOSED AMENDMENTS

First, an amendment to delete the expansion of section 3 of the act to an “aggrieved person” should be adopted. Senate 401 of H.R. 6219 introduces this novel provision which is also included in the modified form in the amendment in the nature of a substitute.

The expansion of section 3 to an aggrieved person is inconsistent with the remainder of the act. While the extraordinary remedies of section 3 are permanent, section 3 is permanent. While the rest of the act applies to specially covered jurisdictions, section 3 applies in any event. The extraordinary remedies are subject to the bailout clause of section 4(a) of the act, the remedies of section 3 can be imposed indefinitely.

In short, long after sections 4, 5, and 6 are dead letters, section 3 will remain

CONGRESSIONAL RECORD—HOUSE

June 2, 1975
to allow a Federal or State court to require preclearance—theoretically forever. If the special coverage provisions of the act are to be made permanent, then a substitute should be adopted with a concurrent restriction on the retention of jurisdiction by the court available under section 3.

Also, as presently drafted, section 401 of H.R. 6219 opens up the remedies of section 3 only to certain language or racial minorities. There is simply no reason to suspect that American Indian, Hispanic, or Aleut minorities denying them access to a remedy designed to prohibit voter discrimination.

Hence, I urge my colleagues to adopt the amendment to strike section 401 of H.R. 6219.

Another fundamental inequity in the Voting Rights Act centers on locating all actions for declaratory judgments against the United States pursuant to sections 4, 5, and 13 in the U.S. District Court for the District of Columbia. This section has been defended on grounds of creating expertise in the judges, saving the United States expenses in defending litigation, and creating uniform laws on the issue of voting rights. None of these reasons holds up under analysis.

Only 10 bailout suits, including 1 brought by the Attorney General to effectual reenforcement, have been brought under the Voting Rights Act in its 10-year history.

Fourteen judges have sat on the three judge panels in these suits; only two have decided four cases and one has heard three cases. The other 11 judges have sat either once or twice. Only 3 of these 10 cases resulted in decisions other than consent decrees. Thus even in these few cases, no expertise has been developed and the likelihood of nonuniform decisions remains. Moreover, there is simply no argument that the litigation mentioned in section 4 is required to save the Government the cost of defending litigation in remote areas of the country; only 10 suits have been filed in 10 years.

Secondly, why permitting actions from being brought in local U.S. Federal district courts is a politically based distrust of the judges sitting in those courts. The refusal of the supporters of H.R. 6219 to adopt an amendment permitting local venue reveals the true hypocrisy of those who steadfastly contend that this act is not regionally oriented reconstruction.

With the immense expansion of this act being a real possibility, it is time to allow States to sue in local Federal district courts to reclaim their sovereignty under the Constitution. The inconvenience and cost of filing an action for declaratory judgment should no longer be a factor that a State must weigh in determining whether to seek relief in a Federal court.

For these reasons, the amendment to permit local venue in an action for a declaratory judgment should be passed.

A fundamental defect with the structure of H.R. 6219 lies in its expansion to cover "language minorities," for example, American Indians, Asian Americans, Alaskan Natives, and persons of Spanish heritage. As previously discussed, there is no reason to deny relief to any group because of the act. If the trigger is to be selective, then the amendment in the nature of a substitute should be adopted with a concurrent restriction on the retention of jurisdiction by the court available under section 3.

One such alternative was recommended during the hearing of September 19, 2000. Instead of lengthening the period of purity from 10 to 15 or 20 years, the suggestion is to merely prohibit a covered jurisdiction from bailing out prior to August 6, 1986, and extending the period of coverage until the original period of 5 years. This has the simplicity of insuring that every 1965 reappropriation plan of a covered jurisdiction will be subject to review. At the same time, the future use of a test or device will not result in the jurisdiction being punished for 20 long years.

Those of my colleagues who believe in rehabilitation and compassion should lend their support to this amendment to effectuate a straightforward extension of the act without imposing an unintentional, unconscionable side effect.

Before I complete an admittedly lengthy debate on this subject, one last topic deserves discussion and deliberation. Even under the present law, it is legally possible to vote more than once in a Federal election. Section 11 of the act deals with antifraud provisions prohibiting fraudulent registration, but as previously indicated, fails to prohibit voting more than once in a Federal election as long as valid registration has been procured.

An amendment to close this loophole has been drafted. Unbelievably, it was defeated in subcommittee and full committee on partisan grounds. The amendment is not dilatory, nor is it deceitful. It is merely a Republican amendment designed to prevent the abuses that occur in many parts of the country to dilute every person's vote, including the minority vote.

Consistent with the structure of section 11, the amendment requires criminal penalties to be imposed upon any person who votes more than once in the same Federal election, subject to certain technical exceptions. Clearly, a person evincing criminal intent to vote more than once ought to be punished.

Mr. Chairman, it is inconceivable that any Member can vote against an amendment to outlaw this insidious evil. Logic and reason call for unanimous support of this amendment.

Chairman, we have seen that the Voting Rights Act was designed to combat the disenfranchisement of minority voters in this country. The inadequacies of the present act and of H.R. 6219 in accomplishing this goal have been explicated in detail. Progressive, affirmative solutions have been proposed and discussed to eliminate entrenched discrimination and to encourage minority voter turnout.

Mr. Chairman, the Members of this Congress have a choice. We can pass H.R. 6219 and perpetuate the stench of Reconstruction legislation which does more harm than good, or we can adopt
bold new legislation, which will encourage affirmative action by the States to preserve and protect the voting rights of all of the people. The time to act is now.

Mr. EDWARDS of California. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Mr. Chairman, I want to commend the subcommittee for your hearings that amounted to 1,500 pages, and for the enormous work that has resulted in this very historic legislation.

Mr. Chairman, there was a time in our country, not so very long ago, when only white men over the age of 21 who owned property were allowed to vote. Blacks, women, persons under 21, and propertyless men were totally excluded from the electoral process. In determining the number of Representatives from each State to this House, the Constitution counted only three-fifths of the blacks and omitted altogether unto the ages of 21 and 60 Indian "Supers of the land" proposed to establish a constitutional democracy, it in fact perpetuated an electoral aristocracy.

Since the period of Jacksonian democracy in the 19th century, however, we have witnessed successful efforts, slow to be sure, to expand the size and composition of the electorate. The political process, both at the State and Federal levels, has accounted for much of the gain. First, most property restrictions were removed. Then denying the right to vote on account of race, color, or sex was prohibited by constitutional amendments. Recognizing the unfairness of age restrictions, voting eligibility was lowered from 21 to 18 years.

While the legislative bodies in the Nation were removing some of the barriers to voting, the courts also sought to bar, as a constitutional matter, artificial and unreasonable limitations on the right to vote which the legislatures declined to remove by their own decisions. As they have accelerated in the last 10 years, the U.S. Supreme Court has regularly invalidated voting restrictions. It is no longer constitutionally acceptable to legislate franchise limitations which are only rationally related to a legitimate objective. The Supreme Court has held that voting is a fundamental right which cannot be infringed except where a "compelling interest" or a "sufficient pervading necessity" requires it. The Court has struck down poll taxes, durational residency requirements, and excessive nessary fees. Only 3 weeks were the Court invalidated Texas laws which limited voting in bond elections to certain taxpayers.

The bill before us marks another major advance in the last century's thrust to vote to citizens previously excluded from the electoral process. H.R. 6219 continues the protection for certain minority voters which we first enacted 10 years ago, and it expands coverage of the Voting Rights Act for the first time to certain language minorities. This second feature of the bill is particularly important because it removes discriminatory barriers which States have erected to prevent non-English and illiterate persons from voting. While the ultimate solution for such language minorities is through the educational process, this bill would allow these citizens to take advantage of the right not have to await some distant, indeterminate time when remedial educational programs might furnish sufficient skills to their English-only elections which are conducted almost universally in America.

Apart from the general thrust of the Voting Rights Act of 1965 to provide parallel remedies to private litigants which are now available to the Attorney General. Under the present section 3, whenever the Attorney General initiates a voting suit to enforce the guarantees of the 15th amendment, he or she may seek the "special" remedies of the act which apply automatically in covered jurisdictions. In such suits, the court, in its discretion, may suspend any "test or device," authorize the appointment of Federal registrars-examiners-and observers, and require the defendant State or political subdivision to submit any voting change to the court or the Attorney General prior to implementing it.

The amendment which I sponsored, new section 401, would make the special remedies of section 3 available to private litigants by adding the phrase "or an aggrieved person" to the appropriate places in section 3, specifying that either the Attorney General or "an aggrieved person" shall seek the remedies of section 3 in any voting suit to enforce the guarantees of the 14th or 15th amendments. Such suits may, of course, be based directly upon those amendments, see Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971), or upon statutes enacted pursuant to them, such as 42 U.S.C. Title 71, 1975, and 1963. With this amendment we provide a dual enforcement mechanism in the voting field as we have done in other areas of civil rights. In the Civil Rights Act of 1964, for example, Congress created both private and governmental remedies in the public accommodations and equal employment opportunity titles of that statute. Section 401 is intended to fill the same dual role that now exists in the Voting Rights Act.

The use of the phrase "aggrieved person" is intended to mirror its usage in other Federal statutes. It is well-known and familiar phrase which has been employed by the Congress on many occasions and regularly interpreted by the courts. We used the term in titles II and VII of the 1964 act and in title VIII of the 1968 act; a similar provision was contained in the Administrative Procedure Act.

Needless to say, under section 401, only an "aggrieved person" will have standing to seek the remedies of section 3 because voting is a fundamental right which lies at the heart of government based on the consent of the people. It is our intention to give the phrase the broadest meaning the Constitution will allow so that all barriers to the right to vote may be challenged in a proper legal proceeding. The report of the Judiciary Committee on this bill makes that perfectly plain.

In addition it must be stressed that the term "aggrieved person" should not be limited to a natural person. Ordinarily, an individual, or perhaps a corporation or association, who is injured will be the initiator of legal action to correct illegal restrictions on the franchise. There may, however, be a number of circumstances when this is impossible. In such cases, an "aggrieved person" may be an organization representing the interests of the victims or a person who, although not a member of the excluded class, is nonetheless adversely affected by the challenged act or practice.

The standing of such persons to bring suit is not a novel concept as the courts have held in such cases as, for example, In re Traficoante v. Metropolitan Life Insurance Co., 409 U.S. 305 (1972), NAACP v. Button, 371 U.S. 415 (1963), and Barrows v. Jackson, 346 U.S. 249 (1953), the Supreme Court held that individuals and organizations, other than the direct victims of the discrimination or members of the protected class, have standing to challenge exclusionary practices. Congress, we believe, should extend the limits which article III of the Constitution places on the jurisdiction of the Federal courts. But we can legislate to the outer perimeters of that authority, and that is what we mean to do here.

I should note additionally that the thrust of section 3 is to authorize the application of the "special" remedies of the Voting Rights Act to noncovered jurisdictions since they already apply to covered areas. There may be circumstances, however, when a private litigant wishes to invoke the authority of the Federal court so that it may apply and supervise the implementation of the section 3 remedies in States or political subdivisions already covered by the act. Section 401 of the bill would allow an aggrieved person to ask a Federal court to apply section 3 remedies to a presently covered jurisdiction for such purposes.

Mr. Chairman, I also wish to comment on section 403, a provision which I offered as an amendment during the markup. This section authorizes the court, in its discretion, to award a reasonable attorney's fee to the prevailing party in a voting suit. This provision is extremely important if the dual enforcement scheme envisioned by section 401 is to be effective. We cannot expect private
litigants, especially minorities, to bear the tremendous costs of instituting suit to remedy unlawful voting practices. In the view that the result is an extension of the Supreme Court decision in *Alleyska Pipeline Service Co. v. Wilderness Society, No. 73-1977* (May 12, 1975), the importance of section 402 is underscored. In that case, the Court rejected the argument that a voting suit might be in the case where damages are recoverable, even by "private attorneys general," in the absence of a statute authorizing them. No such statute presently exists for voting suits. Seldom would it be appropriate to recover counsel fees when it is considered that the ordinary plaintiff in a voting suit is seeking only injunctive relief. Thus the need for recovering counsel fees is reduced when the circumstances would render such an award unjust. *Newman v. Piggie Park Enterprises, Inc., 390 U.S. 400, 402 (1968)* (per curiam). Of course, even if damages are recoverable, counsel fees would still be appropriate.

The provision for attorney fees in section 402 is available in "any action or proceeding to enforce the voting guarantee of the 14th Amendment." Such litigation would include not only suits based directly on those amendments, but also cases based on statutes and constitutional provisions which might be so great that it would discourage voting. The word "prevailing" does not require the entry of a final order before fees may be recovered. See *Bradley v. School Board of the City of Richmond, 416 U.S. 696* (1974); *Mills v. Electric Auto-Lite Co., 396 U.S. 375* (1970).

In exceptional circumstances, the phrase "prevailing party" might also include a defendant if counsel fees are awarded to a prevailing defendant, however, is not the same as for a prevailing plaintiff. If it were, the risk to the disadvantaged, minority litigant might be increased. The phrase "leading" does not require the entry of a final order before fees may be recovered. See *Bradley v. School Board of the City of Richmond, 416 U.S. 696* (1974).

In exceptional circumstances, the phrase "prevailing party" might also include a defendant if counsel fees are awarded to a prevailing defendant, however, is not the same as for a prevailing plaintiff. If it were, the risk to the disadvantaged, minority litigant might be increased. The phrase "leading" does not require the entry of a final order before fees may be recovered. See *Bradley v. School Board of the City of Richmond, 416 U.S. 696* (1974).

In exceptional circumstances, the phrase "prevailing party" might also include a defendant if counsel fees are awarded to a prevailing defendant, however, is not the same as for a prevailing plaintiff. If it were, the risk to the disadvantaged, minority litigant might be increased. The phrase "leading" does not require the entry of a final order before fees may be recovered. See *Bradley v. School Board of the City of Richmond, 416 U.S. 696* (1974).
tion this because we have in the record no indication, and this has been affirmed many times, that there was discrimination in the application of tests that were the same as the modest literacy test, which has been since repealed. It did not require that the applicant read and write the Constitution or interpret portions of it. It required that a prospective voter make application in his own handwriting on a form supplied by the registration officer. No evidence was presented to the district court in Virginia against the United States that such a test had been applied in a discriminatory manner during the 10 years preceding the filing of this action. All the evidence was to the contrary.

Even in 1961 the Court reported that Virginia unlike many Southern States did not practice discriminatory voting processes. The Attorney General of Virginia conducted an extensive factual investigation into the manner in which Virginia's test had been applied during the previous 10 years. That showed the test had no significant impact in disqualifying voters from registering. It was used to its legal limit.

Despite that, the Supreme Court nevertheless found Virginia had to comply with the Act. But in doing so, we find Virginia was commended by the Court for its good faith effort in voter registration in the sixties. Yet despite all this: because of the Gaston doctrine, Virginia would not be able to prove its way out of the action.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. BUTLER. I yield to the gentleman from Massachusetts 3 additional minutes.

Mr. DRINAN. Mr. Chairman, I thank the gentleman from Virginia for requesting the additional time for me.

I am inclined to think the gentleman from Virginia misconstrues the Gaston doctrine by the Supreme Court. This opinion explicitly disclaims any per se rule; it notes that the Court's decision below is premised not merely on the gentleman from Virginia for request of the Act. The Act.

The basic question before us is whether the extraordinary provisions of sections 4 and 5 of the Voting Rights Act should be continued in force. If so, for what period of time? It is clear that modifications and what provisions.

I would like to suggest that there are modifications that are necessary. Our colleague from Virginia, Mr. Butler (Mr. BUTLER) has already indicated one great need. The law, as it is, is not dynamic. It is static. It does not encourage improvement in the performance of the States. That, indeed, should be changed.

There are amendments that we can find in the CONGRESSIONAL RECORD at page H4591 of May 21, 1973, that I will seek to get on the record. That is the bill, however, the poll tax, of course, has been done away with. The Civil Rights Act remedies are still available, and section 3 of the Voting Rights Act is already permanent policy in the United States.

The time of the gentleman from Massachusetts has expired.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, would the gentleman be opposed to including the provisions which are presently included in the Civil Rights Act of 1964, and also in the Voting Rights Act of 1965, and title VIII of the 1964 act, and title VIII of the 1968 act?
The precise language that we now incorporate in the Voting Rights Act was included in those acts. Would the gentleman, therefore, be suggesting that we are to wipe out all the dual enforcement procedures in virtually all previous civil rights bills?

Mr. KINDNESS. I think the gentleman makes an excellent point. What we are discussing here is not the Federal Civil Rights Act and its connection with other laws already on the books.

We are talking here only about the Voting Rights Act, which provides an extraordinary set of remedies, and which provides for the extraordinary flow of actions which may be put into place by the court in the event certain findings are made, at the behest of the Attorney General.

I would suggest that the possibility of any aggrieved person being able to bring about the set of remedies that provides for the exercise of those dual enforcement works, including preclearance with the court, is of such an unusual nature that it is really foreign to the type of statutory provision in which the gentleman from Massachusetts speaks. It is an entirely different set of circumstances, and I differentiate on that basis.

I would suggest that these modifications are very necessary in order to bring the Voting Rights Act into line so that it will be broadly supported.

As a member of the subcommittee, I have spent a reasonable amount of time on this matter. I cannot pretend to know or foresee all of the results which may flow from the enactment of this bill as the law of the land. I can only say that the proper constitutional rule of the individual States which comprise and support this Nation as a Republic should be reinstated to them as soon as possible, consistent with the protection of the rights of all citizens to vote and participate in our Republic. The conditions under which this law is extended must be reasonable and consistent with that principle, in order to be respected by the Republic generally. We must not petrify the law.

The tendency to emulate the dinosaur and other extinct creatures should be removed.

Mr. EDWARDS of California. Mr. Chairman, I yield 8 minutes to the gentleman from New York (Mr. Badillo).

Mr. BADILLO. Mr. Chairman, I rise in support of this legislation, and I rise in support of this legislation in full, without amendment, as it is.

Mr. Chairman, I want to say that I was a member of the subcommittee, and I want to commend the chairman of the full committee, the gentleman from New Jersey (Mr. Ronno). I want to particularly commend the gentleman of the subcommittee, the gentleman from California (Mr. Edwaarz) for giving us all an opportunity to present our views and to present whatever witnesses we had so that we could make sure that the Voting Rights Act of 1975 was an improvement over the Voting Rights Act of 1965.

Mr. Chairman, I particularly appreciate the opportunity, because I became a member of the Committee on the Judiciary because I felt that this can be the most important legislation of this session of Congress, in terms of seeing that everyone understands that the spirit of the 1965 act which led to the Voting Rights Act of 1965 is still alive in the 1970's, and in terms of seeing to it that everyone understands that we mean to insure that these are affirmative efforts for everyone in this country to vote.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. BADILLO. I will certainly yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Chairman, I would like to point out to the Committee that the gentleman from New York (Mr. Badillo) and the gentleman from Texas (Miss Jordon) and the gentleman from California (Mr. Roybal) all shared the honor of being the authors of titles II and III of the bill, which constitute its great forward step in civil rights and voting rights in the United States, and all three, particularly the gentleman in the well now, should be commended.

Mr. BADILLO. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I want to point out that the gentlewoman from Texas (Miss Jordan) is here, as well as the gentleman from California, from California, from California, from California, from California, from California, from California, from California, from California, from California, from California. And that is the reason that we saw to it that these hearings were structured so that those who wanted to testify would have an opportunity to do so. There were people who came from all parts of the country, particularly to testify on the question of extending the act to include the new language minorities.

We had individuals such as Mr. Voila Martinez, the president and general counsel of the Mexican-American League Defense and Education Fund; Mr. Jack John Olivero, the director of the Puerto Rican Legal Defense and Education Fund; Mr. Alfredo Martinez, the controller of Houston, Tex.; and many others. All of them documented the fact that there exists today barriers to registration, barriers to candidacy in the areas affected by the language minorities which make it essential that the Voting Rights Act be extended to include them as well.

Mr. Chairman, it was for that reason that the gentlewoman from Texas (Miss Jordan), the gentleman from California (Mr. Roybal), and I submitted a bill together, at the end of the hearings, which became the basis for title II and title III.

I want to point out to the Members that title II and title III, as already enacted, are really very limited provisions which cover all of the areas that should be covered, but merely try to establish the principle that the language minorities are entitled to the same protection that presently exists in the Voting Rights Act for other groups. The reason that we specifically refer to the protections of the 14th amendment was because of the fact that the language minorities may be of one racial group or another. They might be white; they might be black; they might be Indian; or they might be a mixture of two or three different groups. In order to insure that all of them would be covered, whatever their background has provided them, we knew that the act shall include not only the protections guaranteed by the 15th amendment, but the protections guaranteed by the 14th amendment as well. We shall see precisely the same structure that presently exists in the act, and that is the reason that in title II the trigger mechanism that is identified is a bilingualism in the 1965 act. That is the principle that the jurisdictions to be covered will be those where less than 50 percent of the persons of voting age were registered to vote or actually voted.

The only change we made was that in the definition of "test" or "device" we provided that a test or device shall be considered to exist where there are more than 5 percent of the people of a single language minority and the ballots are in English only. It is for that reason, when that test is applied, that we get a certain number of additional covered jurisdictions.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. BADILLO. I yield to the gentleman from Virginia.

Mr. BUTLER. As I understand it, there is no evidence that would indicate the necessity for extending the act to Alaskans.

Mr. BADILLO. I remember that the gentleman was a member of the subcommittee when the Assistant Attorney General, Mr. Pottinger, testified. He had requested that we go beyond merely a one-language minority. Does the gentleman remember that I asked him whether he would be willing to agree to have only persons of Spanish heritage, and he felt that other groups should be included. It is at the request of the Attorney General that the language minorities are extended to include not only Spanish-speaking persons or persons of Spanish heritage, but the Alaskans and the Indians.

Let me just make one other point: Alaska was included in fact, under the previous act, and the Alaskans would technically be included under the 15th amendment as well as the 14th because they are members of a separate race.

It is clear that under this provision in title II, since Alaska has already been bailed out, it would be possible for the Alaskans to bail out again if this provision were to be carried out. Mr. BUTLER. Mr. Chairman, if the gentleman will yield further, along these lines, it is perfectly clear that the extension to the Alaska Natives was not based on research in that area, and indeed, Mr. Pottinger, the Assistant Attorney General, wrote us to this effect on May 13:

This is not to say that any evidence has been brought to bear on this as a news for expansion of the coverage of the Act to Alaskan natives. We have received no specific evidence regarding them.

The gentleman is familiar with that statement from the Attorney General; is he not?
Mr. BADILLO. That is right.
Mr. BUTLER. I thank the gentleman.
Mr. BADILLO. I do want to point out, as I said earlier, that the Alaskans will be covered in any event under title II. The new problems with respect to Alaskans are not under title IX because the Alaskans went through that already in 1965 and 1970. The new problems with respect to Alaskans are not under title II, however, on the question of a bilingual ballot, and this problem arises in view of the fact that certain of the languages that are spoken in Alaska are not written languages, and therefore a difficulty arises as to that.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. BADILLO. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, my understanding of this bill is that the language of a minority has nothing to do with regard to whether the minority speaks English or not, but, for instance, persons who have Spanish surnames, they would be classified in the language minority.

Mr. BADILLO. That is right.

The term "language minority" so far as the Spanish-speaking people are concerned, is defined by the legislation as persons of Spanish heritage, and the reason for that is that there are different definitions in the census, one of persons of "Spanish origin" and another of persons of "Spanish heritage". The more limited term used was persons of Spanish heritage, and that is why that language is used.

The CHAIRMAN. The time of the gentleman has expired.

Mr. EDWARDS of California. Mr. Chairman, I yield 3 additional minutes to the gentleman from New York.

Mr. BADILLO. I thank the gentleman for yielding me the additional time.

Mr. GOLDWATER. Mr. Chairman, if the gentleman will yield still further: in other words, this is based on their name, and not whether they can speak English or not?

Mr. BADILLO. That is right. It is based on persons of Spanish heritage, which is the census. In other words, there have to be certain factors that do exist. First, that there be a jurisdiction where less than 50 percent of the people were registered to vote, or voted in 1972; second, that there be more than 5 percent of persons of Spanish heritage, and in that case; third, of course, that there have been no ballots in a language other than English. If any of these provisions of the bill would apply. But, as I have indicated, this is a very limited number of cases throughout the country. It is for that reason that title III was put in the bill. Title II does not bring about the full provisions of the Voting Rights Act into each jurisdiction, title III merely provides that there shall be a bilingual ballot in the case where more than 5 percent of the people are of Spanish heritage, and they have a literacy rate that is lower than the national average. If those conditions exist, then the jurisdiction will be covered by title III.

So that essentially there are two totally different triggering mechanisms, one which brings a jurisdiction within full coverage of the Voting Rights Act in terms of the power of the Attorney General, and the other, title III, which simply provides that there shall be multi-lingual elections, and does not give the Attorney General any more powers.

Mr. GOLDWATER. If the gentleman will yield still further, would it authorize the Bureau of the Census to do anything other than what it is doing today, or does it give them added power to go in, in more inquisitively, the lives of people, or their backgrounds?

Mr. BADILLO. Not to go into more details. The Bureau is required to conduct special studies in order to determine compliance; that is, to take more regular samples to determine, first of all, the exact percentage of a single-language minority or, second, whether or not the literacy rate in a given jurisdiction has improved over a period of time, but we do not require any additional information than would otherwise be borne by the Bureau of the Census, only that we require the information more often, and hopefully in a much more systematic way that we have gotten it up to now.

Mr. WIGGINS. Mr. Chairman, we are not asking for more registration or voting materials in the language of the applicable minority group as well as in the English language.

Fourth, requires that whenever any jurisdiction subject to this section provides any registration or voting materials defined, they be printed in the language of the applicable minority group.

Title II of H.R. 6219 also contains a specific separability clause with respect to the amendments made by this bill to the act. This separability clause is of particular importance in this bill because it is the demonstrable intent of Congress that the extension of the Voting Rights Act of 1965 not be impaired by a challenge to the constitutionality of the provisions of this bill which would expand the coverage of the act.

Title III of H.R. 6219 would amend the Voting Rights Act of 1965 to ban the use of English-only election and registration procedures in those States and political subdivisions not covered by the special provisions of the act, but which have a substantial concentration of language minorities and where the illiteracy rate in English of such persons is above the nationwide illiteracy rate in English for all persons of voting age.

Under title III, citizens of language minority groups who have been excluded from the political process because of their inability to speak, write, or understand English would be provided some assistance through bilingual procedures. In contrast to title II of the bill, such assistance under title III would require a minimum of special Intrusion into local affairs and would not set into operation all the stringent requirements of other sections of the Voting Rights Act.

The less stringent provisions of title III are based largely on unequal educational opportunities. The evidence indicates a close and direct correlation between high illiteracy among these groups and low voter participation among them. For example, the illiteracy rate among persons of Spanish heritage is 18.9 percent, among
Chinese is 16.2 percent and among American Indians is 15.5 percent, compared to a nationwide illiteracy rate of only 5.5 percent. In the 1972 Presidential election 73.4 percent of Anglos were registered to vote compared to 44.4 percent of persons of Spanish origin. The illiteracy rate among these language minorities is not coincidental. It is the result of the failure of State and local officials to afford equal educational opportunities to language minority groups. While title III will not correct the deficiencies of prior educational disparities, although that may be a necessary concomitant, it will permit persons disadvantaged by such inequality to vote now.

A State or political subdivision would be covered under title III of H.R. 6219 if a single language minority comprises 5 percent of the total voting age citizen population, and if the illiteracy rate of that group is greater than the national average. For purposes of this title, "illiteracy" is defined as failing to complete the fifth primary grade, the level at which a minimum comprehension in English ordinarily would be achieved.

Therefore, that the present legislation is carefully and narrowly limited in its impact. Nevertheless, it serves notice to all local jurisdictions that Congress does not mean to either retreat or to stand still in asserting its authority to enact legislation under the 14th and 15th amendments to insure that the right to vote becomes a meaningful right available to all citizens.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BUTLER. Mr. Chairman, 1 yield 5 minutes to the gentleman from California (Mr. WIGGINS).

Mr. JOHNSON of Colorado. Mr. Chairman, I take the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The gentleman announces that he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device. The call was taken by electronic device.

The CHAIRMAN pro tempore (Mr. STUDS). One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, other proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The Chair recognizes the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Chairman, my first purpose in taking the floor is to underscore what is happening today and tomorrow. The Voting Rights Act of 1965, as amended in 1970 and as now proposed for amendment in 1975, is probably the single most important act passed by the Congress of the United States with respect to the exercise of the franchise since the adoption of the 15th amendment.

This is critically important legislation. Now, given the importance of this bill, it is important to review its efficacy and the manner in which the triggering mechanism under the act is, in the light of present day circumstances, irrational and ought to be improved. Whereupon I shall offer a substitute which is designed to improve this act, to make it a better act, to make it more rational more logical, in light of today's circumstances.

What is wrong with the trigger which this Congress imposed upon the country in 1965? Let me give the Members an answer to that question in the following way: The whole theory of the Voting Rights Act is that the right to vote should not be denied or abridged by reason of racial discrimination. The emphasis is on the right to vote. We are saying to Congress that there were many techniques for denying and abridging the right to vote and a case-by-case remedy was totally undesirable and unrealistic.

Accordingly, we adopted a triggering mechanism which presumed discrimination where certain facts existed historically. The facts which triggered the presumption were the presence of a test or device in 1964, and the failure of voters to turn out in the 1964 election. If those two things existed, then the Congress rebuttably presumed that discrimination existed within that jurisdiction.

The presumption was merely rebuttable because a jurisdiction had the right to pull out from under the act by demonstrating to the U.S. District Court in the District of Columbia that, in fact, it had not discriminated against blacks in its voting practices. The key was to look to historical events, to what happened in 1964, to the condition in that jurisdiction for a period of 5 years into the future.

When we extended this act in 1970, we continued to apply the 1964 trigger, as the Members all know. We added a refinement to it, but basically if a jurisdiction erred in 1964, it was going to be covered for a period of 10 years. We continued to rely upon historical facts rather than on current reality.

I contend, Mr. Chairman, that we can make this act a better act if we look to current circumstances rather than to the conditions 5 years ago. With that in mind, I have proposed a substitute. The substitute makes this bill permanent legislation. It does not extend it for a period of 5 years or 10 years; it is a permanent act. I think that is a desirable thing to do.

Second, it modifies the triggering mechanism so that a jurisdiction would be covered if it had low black voter turnout. That is, if there were 5 percent of black citizens or brown citizens within the jurisdiction at the time of the most recent general election. Those are the only two provisions that would be modified. Indians are not; Asian Americans are not; Alaskan Natives are not; only blacks and browns.

If 5 percent of blacks or browns are within a jurisdiction at the time of the most recent general election, that jurisdiction is covered under the act. If those minorities fail to vote—historically, but in the most recent general election—at a rate of 50 percent or more, then that is a sufficiently compelling circumstance to cause the Congress of the United States to require preclearance of that jurisdiction's voting practices to insure the absence of discrimination.

Clearly such an approach is much more rational than the current trigger, Mr. Chairman. The Members understand that in the year 1976 if a jurisdiction in Georgia, for example, had every single black vote, every one, it would still remain covered under the act because of something that happened in 1964. What is the common sense of that? I would suggest to the Members that there is no rationality in that kind of trigger.

Let us look at the other side of this coin, as it were, as it relates to the status of Chicago, for example. If in fact, in 1976 no blacks voted in Chicago, none, that jurisdiction would not be covered because the present act looks to what happened 5 years ago.

The trigger which I have proposed in my substitute is dependent, as I have said, upon the existence of a 5 percent minority, black or brown. I picked 5 percent. Mr. Chairman, only for de minimis reasons. It makes no sense to me to invoke the extraordinary remedy of Federal preclearance in the jurisdictions where they have only a handful of blacks. The appropriate relief in such an instance is not Federal preclearance but rather individual lawsuits under section 3 of the act.

And, second, the turnover is dependent on the performance in the most recent election. That means that in 1976 if a jurisdiction gets its blacks and browns out to vote, 50 percent or more, they will remain covered 5 years. In 1978 they will be subject to review again. If the blacks and browns in that same jurisdiction fail to turn out 50 percent or more, coverage would attach, and so on each 2 years.

No one can convince me—and I try not to be bullheaded about this—that it is more rational to look at historical events rather than current performance. The irrationality of the current mechanism is further demonstrated by the requirement of the test or device.

Tests or devices were outlawed in this country in 1970. A national ban was imposed for 5 years in 1970, and there has not been a testing device lawfully in existence since 1970 anywhere in this country.

The legislation makes that ban permanent, and I wish to support that change. My substitute also requires a permanent ban on literacy tests. To continue to look to tests or devices is outdated in current circumstances.

Mr. Chairman, I want to suggest to the Members, as well, that the jurisdictions entitled to bailout under the existing act are given no incentive to improve
Mr. WIGGINS. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, the gentleman indicated he would cover the legislative history. Would the gentleman please indicate any support for his proposition that is contained in the 1,500 pages of hearings conducted over many, many weeks, a record that now totals more than 1,300 pages?

Mr. WIGGINS. Did I understand the gentleman to say, do I intend to support that record? Of course, I support that record.

Mr. DRINAN. No, I am sorry. Does the gentleman seek to support his substitute by anything that is in the record of the hearings that the subcommittee conducted under the bill because it deals with voter performance by the very minority to be affected rather than the performance of everyone.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. Yes, indeed. My substitute properly takes into account that record.

Mr. DRINAN. If the gentleman will yield further, I would like to respond to that.

We have here the record of the U.S. Commission on Civil Rights. It is reproduced in part 3 of the hearings. Throughout the cities of the North there are all sorts of discrimination against blacks and minorities, but there is no overt or perhaps no implicit voting rights discrimination. The problem that the U.S. Commission found, and the problem that the subcommittee found, was that in the South and elsewhere there has been a persistent pattern of discrimination that prevents or inhibits blacks and Spanish-speaking persons from voting.

If the problem were found in the same way in northern cities, I would be the first one to say that we should extend this Voting Rights Act to the northern cities.

Mr. WIGGINS. I suggest to the gentleman that he simply open his eyes to reality, because it does exist elsewhere in the country.
than voters represent at least the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional.

This, then, is the classic formulation to be applied in all cases where the reserved powers of the States are circum­scribed by express powers of Congress. 1

The traditional provisions of the Constitution supporting the trigger of the Voting Rights Act are sections 1 and 2 of the 15th amendment. Section 1 prohibits the United States or any State from denying or abridging the right to vote of any citizens of the United States on account of race, color, or previous condition of servitude. Section 2 authorizes Congress to enforce section 1 by appropriate legislation. Another basis of constitutional power to support a trigger lies in sections 1 and 5 of the 14th amendment. In pari materia, that is, in the context of the 14th amendment, the State shall deny to any person within its jurisdiction equal protection of the laws. Section 5 grants Congress the power to enforce section 1, inter alia, by appropriate legislation. Hence these are its sources of constitutional power on which the trigger is based; the extent to which the trigger is plainly adapted to meet the purposes of these sources of power is determinative of its rationality and constitu­tionality.

In evaluating what the purposes of the 14th and 15th amendments are, Congress is not limited to prohibiting State and local laws and practices that would them­selves be unconstitutional; rather, Congress may enact legislation appropriate to enforce the 14th and 15th amendments similar to the broad power of the necessary and proper clause, article I, section 8, clause 18. Katzenbach v. Morgan, 384 U.S. 641, 648-51 (1968).

The statute is not a compelling case has not been made to vote was being denied or abridged in a given jurisdiction which does not discriminate in fact can "ball out" by filing an action for declaratory judgment under the U.S. District Court for the District of Colum­bia. C.f. South Carolina v. Katzenbach, (383 U.S. 301, 331 (1966)).

In examining the rationality of the trigger, there are three problems requiring scrutiny. First, the trigger applies only where blacks and browns are concerned; second, it applies only where these groups comprise at least 5 percent of the voting age population; and, third, it applies only when less than 50 percent of such blacks and browns vote.

The traditional trigger in the existing act was challenged in South Carolina v. Katzenbach (383 U.S. 301, 301 (1966)). That trigger was activated when, in addition to using a "test or device," a jurisdiction had less than 50 percent of its voting age population registered and voting. The trigger was sustained because Congress had reliable evidence of actual voting discrimination in a great number of the jurisdictions affected by the act, id. at 329, and because a low voter turnout was evidence of widespread disenfranchisement. Id. at 330.

The trigger in the present act focuses on 50 percent of the entire voting age population; the trigger in the substitute focuses on 50 percent of blacks and browns. Since the legitimate end of the legislation is the protection of voting rights by minorities who have been the target of discriminatory practices historically, it is clear beyond reasonable challenge that based upon their voting participation is far more rationally related to this legislative object than one based upon voting participation by the total population. The record is re­plete with evidence that blacks and browns vote less than Anglos as a general rule.

Thus the coverage under the substitute trigger is at least as broad as the trigger held by the court to be constitutional, but will not be overbroad because of a meaningless ballot device. While it is true that the trigger may not be a compelling case has not been made to vote was being denied or abridged in a given jurisdiction where discrimination in voting can be, by no less burdensome procedure. Such evidence is clear with respect to Negroes and those of Spanish her­itage. A compelling case has not been made with respect to others. In confining the purpose of the trigger to specific jurisdictions where a suspicion of voter discrim­i­nation against blacks or browns can logically be drawn, other persons subject to discrimination are not neglected under the legislation. Relief under section 3 re­mains available.

Congress can and should differentiate in fashioning relief to the magnitude and pervasiveness of the wrong which has been demonstrated by the record before it. Testimony in the record has revealed that persons of Spanish heritage do suffer discrimination. Testimony in 1965 has documented the discrimination felt by Negroes. The record for other groups failed to indicate that their right to vote was being denied or abridged in violation of the 14th or 15th amend­ments.

1 The Hearings on H.R. 939 before the Sub­committee on Civil and Constitution Rights of the House Committee on the Judiciary, 94th Cong., 1st Sess. (hereinafter referred to as "hearings").
Thus there is clearly a perceivable basis from which Congress can trigger relief only from the voting rights act of Negroes and persons of Spanish heritage. It is to be noted that while relief is triggered on a limited basis, relief is extended to all citizens whose right to vote is denied or abridged on account of race, color, or national origin. This broad remedy is defensible as a matter of policy and law; voting discrimination of any kind cannot be tolerated, once it is uncovered, no matter who the victim of the discrimination may be.

Thus the trigger is rational in theory and there is no reason to presume that it will not be rational in practice. To allay any fears of my colleagues, the inescapable conclusion is that whatever else may be said about the substitute, there is overwhelming evidence of its constitutionality.

Mr. Chairman, for the guidance of the Bureau of the Census, it is important to make the legislative history clear as to the purpose for which its determinations are made and the degree of precision required in making them, if my amendment is adopted.

The entire thrust of the present Voting Rights Act, and my amendment, is that of a complete removal of discrimination laws and procedures is necessary if there is a sufficiently strong suspicion of voter discrimination. Proof of actual discrimination is not required to invoke remedies. Discrimination will be rebuttably presumed based upon historical voting performances by minorities which our record demonstrates have been the victims of discrimination. To trigger the preclearance mechanism, the Bureau of the Census is asked to determine for each jurisdiction if there is a black or brown minority population of 5 percent or more and if so, whether at least 50 percent of those minorities eligible to vote did so in the preceding general election.

Since the purpose of these determinations is merely to trigger a rebuttable presumption of discrimination, it is at once apparent that a high degree of proof of the facts upon which the presumption is based is unnecessary. The Bureau of the Census need only determine that it is more probable than not that 5 percent of the total population of a given jurisdiction is black or of Spanish heritage, and that such minorities participated to the degree required in the most recent general election. Understandably, the Bureau of the Census is unaccustomed to fabricating in probabilities. It prides itself on the precision of its statistics. For other purposes such precision is necessary; but it is not for the purposes of this act or my amendment to it.

Courts and lawyers, unlike statisticians, are accustomed to accepting the truth of facts that are contorted. The standards by which a fact is accepted as true in civil litigation is normally that of a preponderance of the evidence—that is to say, the weight of the evidence is to be the weight of the facts. The fact in question is to be proved. A preponderance of the evidence does not require 95 percent certainty—a standard customarily employed for every proposition of evidence but 75 percent certainty. It merely requires the fair conclusion that the fact to be proved is more probably true than not based upon the credible evidence bearing on this issue.

The Bureau of the Census is required to make two determinations under my amendment. As has been indicated, it need only conclude, first, whether it is more probable than not that black or brown minorities constituted 5 percent or more of the total population of each State or political subdivision; and, second, if so, whether at least 50 percent of such minorities eligible to vote in fact did so.

The determination in each case, with the standard of certainty which I have described, must of course be based upon probative evidence. As to the first determination, the Bureau of the Census need not look beyond its most recent general census data. Of course, if more recent data is available, it should not be neglected; and if the Bureau of the Census has special reason to believe that in some jurisdictions population shifts since the most recent general census has rendered that data grossly unreliable, it may take note of demographic information collected by other governmental agencies. It need no more. Physical counts to determine with great precision the facts upon which a rebuttable presumption of discrimination is triggered is not contemplated nor necessary.

The second determination is of voting participation by the designated minorities. Current physical surveys and massive surveys are not required. It is to be expected that the Bureau of the Census will identify representative precincts in which blacks or browns predominate and will project its findings for those precincts to the whole of the jurisdiction involved. It is to be expected that the Bureau of the Census will follow in actuality, and practices which have attained a reputation for reliability among private polling organizations.

The second determination is to be made with respect to a class of eligible voters. Presumably, convicted felons and persons suffering from severe mental disorders are not to be counted within the "eligible" class. In eliminating those ineligible to vote from the class to be analyzed, the Bureau of the Census need made no special surveys. It may rely upon the most recently available data from other agencies of Government, such as the Immigration and Naturalization Service and the Department of Justice to determine the percentage of those within the total voting age population suffering from voting disabilities.

I am aware that the Bureau of the Census regards the standards stated here to be unreliable. They would opt for a physical survey costing several hundred millions of dollars. The advise of the Bureau of the Census is valued, but in this case it is rejected. By accepting this amendment, Congress is directing the Bureau of the Census to follow a special extension of purposes for the Voting Rights Act only. Adherence to the standards imposed by this amendment should reduce the cost estimates drastically. Any budgeted amount to the Bureau of the Census in excess of $5 million per annum to discharge the special responsibilities imposed by this act, as amended, should be carefully and skeptically reviewed by the Appropriations Committee.

Mr. EDWARDS of California. Mr. Chairman, I yield myself such time as I may consume for the purpose of advising my colleagues that in the last few days of the 94th Congress, the legislatures of Maine have passed resolutions asking for passage of this bill, and extension of the bill.

We also welcome the resolution from the Legislature of Maryland asking for extension of the Voting Rights Act of 1965.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I am happy to yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding, and I appreciate the communication received from the State legislature of Illinois, however, it seems to me that they are under a complete misapprehension as to what this bill does. They are supporting the extension of the 1965 act, which I also support, but at the same time they appear to be not knowledgeable with respect to the extension of the act set forth in H.R. 6219. At least, that is my interpretation of the letter from State Representative Corneal Davis to our colleagues from New York and Illinois.

Mr. EDWARDS of California. Mr. Chairman, I share with the gentleman from Illinois great respect for the Legislature of Illinois and I am sure they knew what they were doing.

They also specifically said: Extend the Voting Rights Act of 1965 for 10 more years, and also expand the coverage of this act to include citizens of Spanish-American heritage, Indians, Asians, and Alaskan heritage.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, I would ask the gentleman from California are the jurisdictions that were covered with their views presently covered by the Voting Rights Act?

Mr. EDWARDS of California. Portions of Maine were covered. I do not believe that any part of Illinois or Maryland were covered.

Mr. BUTLER. Will any of these jurisdictions now be covered under titles II and III?
Mr. EDWARDS of California. No. I believe not.

Mr. BUTLER. I thank the gentleman. I hope the gentleman will communicate his expression of gratitude to the States for their concern for the welfare of the presently covered jurisdictions.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I was intrigued by the comments of the gentleman from California (Mr. Wicvens) who pointed out to another colleague from Florida that his Legislature would have to come trottin' hat in hand to the Attorney General here in Washington to make any changes under this proposal. But under this proposed extension it is no different from that which has existed for lo these many years; is that not correct?

Mr. EDWARDS of California. That is correct.

Mr. CONYERS. That requirement exists now; it has existed since the inception of the Voter Rights Act; and it would continue.

The CHAIRMAN. The time of the gentleman has expired.

Mr. EDWARDS of California. I yield myself 20 additional seconds to point out to the gentleman from Virginia on May 10, 1974, 18 towns of Maine were included in the Voting Rights Act.

Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. ROYBAL).

Mr. ROYBAL. Mr. Chairman, our debate today focuses on a fundamental issue of justice—the right of a people to cast a meaningful and effective vote. The preservation of that right goes to the very heart of our constitutional system. As the courts have affirmed repeatedly: Any discrimination in determining who may participate in political life undermines the legitimacy of a representative government.

Despite the presence of the 14th and 15th amendments, this Nation has serially protected the voting rights of our language minority groups, especially our second largest minority of over 12 million Americans of Spanish heritage. Mexican Americans and Puerto Rican Americans continue to experience serious impediments to registration and voting participation. The discriminatory practices include physical and economic intimidation, widespread gerrymandering, shifting of political districts, and practices resulting in under-representation, and registration and voting irregularities.

Evidence has been compiled showing failings by registrars to locate voters' names on precinct lists, lists of voting locations and lack of adequate voting facilities. Other abuses, especially rampant in Texas, involve annexation of only Anglo areas but not contiguous Spanish-speaking neighborhoods and shifts from single-member to at-large elections. Aggravating these voting obstacles has been the almost total absence of bilingual registrars and election officials in areas having a substantial percentage of Spanish-speaking and other language minority voters.

The total effect of these practices has been a negligible level of representation for Mexican American. In California, for example, Mexican Americans comprise approximately 16 percent of the total population and 12 percent of the voting-age population hold only 0.7 percent of the elected offices. In the county of Los Angeles, they make up 18 percent of the population, but have no representation on the board of supervisors or the city council. In Texas, Mexican Americans comprise over 18 percent of the total population and over 16 percent of the voting age, but only hold 2.5 percent of the elected offices.

It must be emphasized that the right to vote, as the Supreme Court stated as early as 1886, is a "fundamental political right" for it preserves "all rights." Its denial of the eligibility of this country's democratic system. We have yet to overcome the tragic effects of racial and ethnic discrimination. We have yet to achieve the goal of equal opportunity. Not only have the Spanish-speaking, blacks, and other minorities been denied their right to vote and been properly represented, but they have suffered the oppression of discrimination in housing, health, education, economic opportunity, and equal justice under the law.

It is this experience that imbues our present deliberations with so much urgency and constitutional importance. We are engaged today in a struggle for civil rights. Passage of the Voting Rights Amendments of 1975 will mark a significant milestone in the civil rights movement. It will provide an historic opportunity to affirm our commitment to our democratic and egalitarian ideals. It is for this reason that we as representatives of the people vote not on political self-interest but on the necessity to secure the right to vote for language minority citizens as afforded to other American citizens. Some have argued that H.R. 6219, in its present form, is too radical a change and that Congress really has no obligation to take such a formidable step even if sufficient evidence exists. I strongly disagree with this line of reasoning, for it ignores the spirit and language of the 14th and 15th amendments which grants Congress the "power to enforce by appropriate legislation." This power imposes an affirmative duty on Congress to carry out the principles and directives expressed in these two amendments. For Congress to abdicate these responsibilities would make a mockery of our basic freedoms and protections. We cannot allow ourselves to slip into a do-nothing philosophy, into a governmental approach built on benign neglect and indifference. Others object that they have seen "no evidence of any discrimination to prevent members of language minority groups from registering or voting." It is my contention that titles II and III of the 1975 act, which provide voting protection to language minorities, do offer a rational and legitimate approach based on extensive evidence which I and other witnesses presented during House and Senate hearings. Further, both titles satisfy the constitutional standard of legislative appropriateness enunciated by the Federal courts in recent voting decisions.

The evidence of widespread pattern of voting discrimination and abuse. In California, we found that at-large school elections, in both rural and urban communities, effectively deny Mexican Americans representation on the board, even though they constitute a substantial part of the population.

Further, we found that Mexican Americans must face considerable resistance from county officials to employ bilingual registrars and election officials. County officials have told Chicanos they were not needed as registrars since they already had a Spanish speaking number-almost totally Anglo and English speaking. Clearly this type of practice only perpetuates a political quota system which excludes Mexican Americans and other minorities from the political process and preserves, at all cost, an Anglo-only registration and election system within these communities.

In one predominantly rural area, the county clerk instructed an election official, who had Spanish-speaking skills, not to speak Spanish at the polling facility because it was against the law to do so. Other Members mention that if a political subordinate's bilinguial assistance has serious repercussions in voter turnout among Spanish-speaking citizens. It creates a negative and hostile setting—one of embarrassment and intimidation. We heard of incidents where Anglo officials denied Spanish-speaking persons an opportunity to vote, supposedly because their names did not appear on the list.

In a recent development, however, revealed that their names were listed. We were also confronted with incidents involving threats by election officials. In one community, a Mexican American voter was told she could not vote unless she removed her farmworker button. The threat was clearly intended to intimidate, for the election did not involve any farmworker issue but there was any evidence that the woman attempted to campaign or influence anyone's vote.

Some may raise the question whether California's 1937 law, which is designed to encourage bilingual registration, is not sufficient? The answer is an emphatic no. A recent report by the State of California shows that the law has been ineffectual. The reason is that the administration and enforcement of the election laws, including bilingual assistance, are left to each county's discretion, the very upholders of the status quo. The statewide report adds that—

The vast majority of county clerks and/or registrars of voters, have made little progress in assisting voters who have difficulty in voting in English.

Some of the worst voting practices have involved statewide and local gerrymandering schemes which have been
pro-incumbent even though it meant diluting the vote and level of representation for Mexican Americans.

In Texas, which historically represented a history of voting obstacles instigated by State as well as local action to deny and abridge the right to vote of Mexican Americans and black Americans. The House and Senate both concluded that election law changes which dilute minority political power in Texas are widespread in the wake of recent emergency of minority attempts to vote.

Clearly the evidence is sufficient to warrant the special remedies of the Voting Rights Act for Texas and portions of California under title II. Further, it justifies the need for bilingual election requirements under title III in areas where over 5 percent of the voting age population are Spanish heritage or other single language minority group. As the Department of Justice stated affirmatively in its May 16 analysis on the constitutionality of H.R. 6219:

"The goal of protecting the voting rights of non-English speaking racial minorities is legislatively set by the 15th amendment. The evidence is sufficient to support a legislative determination of need and to support the means chosen for protecting the right to vote.

The focus on English-only elections under title III is extremely important. Title III is directed exclusively to voting abuses relating to language barriers and perpetuation of English-only election systems. The conduct of an English-only election in areas with a substantial percentage of non-English speaking voters acts as a prerequisite, as a prior condition, to exercising the right to vote. It is beyond a doubt a "test or political reality" whose results infect the electoral process in parts of our country.

The evidence is sufficient to support a legislative determination of need and to support the means chosen for protecting the right to vote.

Title III is directed exclusively to voting abuses relating to language barriers and perpetuation of English-only election systems. The conduct of an English-only election in areas with a substantial percentage of non-English speaking voters acts as a prerequisite, as a prior condition, to exercising the right to vote. It is beyond a doubt a "test or political reality" whose results infect the electoral process in parts of our country.

The evidence is sufficient to support a legislative determination of need and to support the means chosen for protecting the right to vote.

Mr. WIGGINS. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. ROYBAL). I would like to ask the gentleman if this bill is passed and if the city and county of San Francisco had 4 percent Chinese, 2 percent Japanese, 6 percent Filipino, and 10 percent Spanish heritage population in 1972, in what language will the ballot distributed in the city and county of San Francisco be printed?

Mr. ROYBAL. In the case where minorities compose 5 percent of the population, it would be in the language of those minorities that meet that requirement.

Mr. WIGGINS. In other words, the ballot in that city and county would be printed in all those languages?

Mr. ROYBAL. That is not correct, because the percentages the gentleman mentioned in some instances are below 5 percent, but those representing 5 percent of a single language minority would have the ballot printed in that language.

Mr. WIGGINS. The gentleman misunderstood the act, because under the facts presumed the act would require the printing of the ballot in each of the languages I have indicated.

The gentleman has on occasion indicated that people of Spanish ancestry have not been elected to public office in the State of California and apparently he cites that fact as evidence of some discrimination against the right of the people. Is it the gentleman's contention that the proper purpose of the legislation before us is to insure the minorities are elected to public office?

Mr. ROYBAL. No, that is not correct, but it is one of the ultimate results of equal registration and voting rights for all people exercising their right of franchise in an understandable manner.

What this definitely does is to provide an informed electorate, and this is something that is very much needed in this Nation.

Mr. WIGGINS. I get the clear impression that the result of the election of minorities to public office is an objective by which the gentleman desires to achieve, but the gentleman may well be eroding the constitutionality of this legislation blighting some State's 15th Amendment.

Mr. ROYBAL. I most certainly disagree with the gentleman.

Mr. WIGGINS. Mr. Chairman, the fundamental purpose of the Voting Rights Act when enacted in 1965 was to "banish the blight of racial discrimination in voting, which has infected the electoral process in parts of our country for nearly a century." Congress was not unmindful of unconstitutional discrimination elsewhere, but political realities dictated against the imposition of the harsh remedy of Federal preclusion except in those few States where discrimination against blacks had become institutionalized.

Amendments adopted in 1970, and the bill as used now, carefully prevent these same Southern States from reasserting the authority over the voting rights of their citizens which other States had remanded to Federal preclusion.

The evidence is sufficient to support a legislative determination of need and to support the means chosen for protecting the right to vote.
would have no hesitancy in finding authority under the 15th amendment as well to correct the constitutional wrong. But unequal voting power is not the wrong which proponents of the current extension of the act seek to correct. What they seek to correct is the deprivation of the right to vote of minority citizens in this country through the operation of GINS (gentleman from California, Mr. WIGGINS)

Mr. WIGGINS. Mr. Chairman, will the gentlewoman yield?

Miss JORDAN. I yield to the gentleman from California.

Mr. WIGGINS. There are two quick answers, and I will not intrude unduly upon the gentlewoman's time.

The first answer is that the section 3 provisions of the act may be available to any class of people who have been having subject to unconstitutional discrimination in denying their rights to vote. That is one answer.

The second answer is to recognize what the act is all about. It is to insure the right of people to vote. If they, in fact, vote, there is no rational reason to say the minority is being discriminated against.

Miss JORDAN. I thank the gentleman. I have just a limited amount of time here.

I know that the basic reason for the act was to enable these rights to develop in an unimpeded way; but it was also part of the underlying purpose of the act to make sure that these county, city, and State legislative bodies, these elected bodies in other areas, did not impede through other mechanisms or devices, other kinds of interlopers into the political process, which would have had the net effect of preventing one exercising his right to vote.

Mr. WIGGINS. If the gentlewoman will yield further, the answer is that if they were not denied that opportunity, if the blacks, in fact, voted notwithstanding all these impediments, there is no reason to subject their legislative act to Attorney General preclearance.

Miss JORDAN. So the gentleman would say he would encourage a low-voter turnout, less than 50 percent, in order to trigger the provisions of the act under the gentleman's substitute?

Mr. WIGGINS. No, not at all, and I totally reject that. My purpose is to encourage the minority vote, not to discourage it.

Miss JORDAN. What bothers me, as the gentleman can tell is that here we have a new concept, a new structure being offered to the Voting Rights Act of 1965 which has never been tested by anyone, totally new and different and unique. We know that there remain jurisdictions necessitating the kind of preclearances of the Attorney General, which are presently available under the legislation and which will be available under this act.

Mr. Chairman, one more thing before I yield to the gentlewoman from Texas (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, will the gentlewoman yield?

Miss JORDAN. I yield briefly to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, I agree that I failed to include the 50-percent turnout factor, but I strongly disagree with the gentleman's last statement that there is no place in the United States which would meet the test. The city of Honolulu, for example, clearly would have to print a ballot in good language because the wish of the Indonesian people from Hawaii were present to inform us of how many languages are involved.

Mr. CONYERS. Mr. Chairman, in order to print ballots in multiple languages if it failed to turn out 50 percent in 1972, the CHAIRMAN pro tempore. The time of the gentlewoman from Texas has expired.

Mr. EDWARDS of California. Mr. Chairman, I yield 2 additional minutes to the gentlewoman from Texas (Ms. ROYBAL).

Miss JORDAN. The gentlewoman from Texas (Ms. ROYBAL) has 2 minutes for an additional statement.
debate of the numbers of black elected officials who now hold office because the right to vote was eased a little bit, and State legislative bodies were redistricted. We have heard of the coming of political awareness on the part of black people in Texas. There are Mexican-American language minorities.

The act of voting itself is a problem. In most rural Texas counties, where paper ballots are used, the voter must sign a numbered stub which corresponds to the box in which the ballot is placed in one box and the stub in another. Although the stub box is supposed to remain sealed, there have been instances where the boxes were delivered with the seal broken. As a remedy for this and other voting abuses, the Voting Rights Act authorizes the U.S. Attorney General to send examiners into covered jurisdictions to oversee the voting process and the counting of ballots.

Gerrymandering, use of at-large elections, and a myriad of other devices are employed to dilute the minority vote. As a remedy the Voting Rights Act requires covered jurisdictions to submit to the U.S. Attorney General changes in the voting laws prior to their going into effect.

As the 10 years of experience of the Voting Rights Act in the South demonstrates, application of the Voting Rights Act to new jurisdictions threatens the political power of those who have employed various devices to minimize minority voters. The issue before us is not political longevity. The issue is whether the enforcement clauses of the 14th and 15th amendments of our Constitution can be made meaningful for those minority citizens, and specifically Mexican-Americans in Texas, to gain equal access to the franchise.

Language is a problem. Census figures show that almost 90 percent of the Mexican-American population in Texas use Spanish as a language spoken in the home. It is estimated that almost 50 percent of all persons of Spanish origin speak only Spanish and have only a limited comprehension of oral and written English. As a remedy the committee bill requires that covered jurisdictions print election materials in the language of the language minority group triggered under the act. In response, the bill requires election materials to be printed in Spanish as well as English.

Registering to vote is a problem. In testifying before the Civil and Constitutional Rights Subcommittee, it was pointed out that the percentage of persons of Spanish surname who register to vote is only 70 percent of the Anglo population. As a remedy the Voting Rights Act authorizes the U.S. Attorney General to send Federal registrars into covered jurisdictions to register citizens.

The act of registering itself is a problem. There are 20-100 people being registered in Texas, but only 10 to 20 percent of them are actually registered. As a remedy the Voting Rights Act requires that Federal examiners be sent to these areas to register citizens.

The act of voting itself is a problem. In most rural Texas counties, where paper ballots are used, the voter must sign a numbered stub which corresponds to the box in which the ballot is placed in one box and the stub in another. Although the stub box is supposed to remain sealed, there have been instances where the boxes were delivered with the seal broken. As a remedy for this and other voting abuses, the Voting Rights Act authorizes the U.S. Attorney General to send examiners into covered jurisdictions to oversee the voting process and the counting of ballots.

Gerrymandering, use of at-large elections, and a myriad of other devices are employed to dilute the minority vote. As a remedy the Voting Rights Act requires covered jurisdictions to submit to the U.S. Attorney General changes in the voting laws prior to their going into effect.

As the 10 years of experience of the Voting Rights Act in the South demonstrates, application of the Voting Rights Act to new jurisdictions threatens the political power of those who have employed various devices to minimize minority voters. The issue before us is not political longevity. The issue is whether the enforcement clauses of the 14th and 15th amendments of our Constitution can be made meaningful for those minority citizens, and specifically Mexican-Americans in Texas, to gain equal access to the franchise.

Language is a problem. Census figures show that almost 90 percent of the Mexican-American population in Texas use Spanish as a language spoken in the home. It is estimated that almost 50 percent of all persons of Spanish origin speak only Spanish and have only a limited comprehension of oral and written English. As a remedy the committee bill requires that covered jurisdictions print election materials in the language of the language minority group triggered under the act. In response, the bill requires election materials to be printed in Spanish as well as English.

Registering to vote is a problem. In testifying before the Civil and Constitutional Rights Subcommittee, it was pointed out that the percentage of persons of Spanish surname who register to vote is only 70 percent of the Anglo population. As a remedy the Voting Rights Act authorizes the U.S. Attorney General to send Federal registrars into covered jurisdictions to register citizens.
the bill a reference to the 14th amendment, as well as the 15th amendment. Accordingly, we should declare that all eligible citizens regardless of race, color, or any other characteristic, are entitled "to the equal protection of the laws," and the right to vote was declared an "inherent and natural right," as well as the prohibition against discrimination based on race, color, or prior condition of servitude as set forth in the 13th amendment.

In my amendments, I aim to remove from this bill that entire title which would blanket in all of the minority language groups under the extraordinary remedies provided in the original law back in 1965, against practices of racial discrimination in voting which had developed for more than a century in certain parts of our country. Title II would extend those same remedies to all of those States and political subdivisions where there is 5 percent or more of a single language minority group and who have illiteracy rates of minority language groups under the extraordinary remedies, registration of voters, and the like, including legislation affecting the boundaries of electoral districts, none of which is reduced to writing. Indeed, the legislation undertakes to establish as a new "test or device" that registration or voting notices, forms, and other materials or information relating to the electoral process, including ballots, are provided only in the English language. This new proposed "test or device" is made retroactive to 1972.

First of all, in order to subject those statutes struck down in this extraordinary remedy, the legislation undertakes to establish as a new "test or device" that registration or voting notices, forms, and other materials or information relating to the electoral process, including ballots, are provided only in the English language. This new proposed "test or device" is made retroactive to 1972. There is also a provision in which any of the States or political subdivisions could bail out of this situation. If the formula of a 5-percent minority language group—and less than 50 percent voting participation exists, the application of title II is automatic—the trigger is pulled. The State legislatures will be prohibited from making changes in their laws affecting elections, registration of voters, and the like, including their allotment of seats to minorities or any other manner affecting practices or procedures with respect to voting—unless first submitting, to the Attorney General of the United States for approval. Indeed, the areas governed by this title would be subject to the further imposition of federal registrars and examiners precisely in the same manner as was authorized in the 1965 act with respect to racial minorities.

Let me repeat, the basis upon which this extraordinary Federal control would become operative is that less than 50 percent of the persons voting age voted in the Presidential election of November 1972, and, additionally, that a language minority exists in the State or political subdivision. As I mentioned also, the basis for contending that relief is required, as in title II, and because the ballots and other election materials were printed only in the English language. There is no necessity for finding out whether or not all persons within the applicant or persons of so-called Spanish heritage, or American Indians, Alaska Natives, or Asian-Americans, understand the English language. The entire conclusion is reached on the basis of the two percentages.

The lack of factual information and the dearth of testimony or other evidence is apparent. This, indeed, may explain the reason for the formula which triggers the application of these Federal controls. However, this reasoning is quite fallacious. There is little or other finding that Asian Americans, Alaskan Natives, or other persons are unable to understand the English language. Arguments will be advanced here that amendments should be rejected because there were no hearings on the subject of the proposed amendments.

Let me observe that with respect to Asian Americans, I find only two short paragraphs in a brief letter mailed to the chairman of the Full Judiciary Committee which makes any reference to Asian Americans whatever. The statistic which I think the number of Eskimo, dialects, continue to be used solely for enforcing Federal voting rights, which would indicate that this kind of remedy is needed in Honolulu, where presumably ballots and all of the various election information would be required to be printed in Chinese.

I notice in addition that the next title includes a reference to San Francisco County. My Asian American daughter-in-law lives just outside this area, but I am sure that she and other Asian Americans who speak fluent English and are entirely literate will not require a ballot in one of several Chinese languages in order to register or vote. The only reference in the report refers to educational facilities for Asian Americans. There is no record relating to voting discrimination.

With respect to Alaska Natives, I have received a communication from Lowell Thomas, Jr., the State's Lieutenant Governor, in which he points out that there are a number of Eskimo dialects, none of which is reduced to writing. Indeed, the State of Alaska, by constitutional amendment in 1976, decided that knowledge of one dialect or another was not necessary for voting. However, Alaska would be subjected statewide to the penalties of title II, and compelled to provide election materials and ballots in languages of the language minorities, which, I remind you, are not indeed written languages.

In other words, the test or device, of which the entire State of Alaska would be guilty because it did not print its ballots or election materials in the language of its language minority group, would be applied, irrespective of the penalties of this title because the Alaska voters are literate. I think the intent of this title and amendments to ballot in order to prevent ballot in one of several Chinese languages in order to register or vote. The only reference in the report refers to educational facilities for Asian Americans. There is no record relating to voting discrimination.

With respect to Alaska Natives, I have received a communication from Lowell Thomas, Jr., the State's Lieutenant Governor, in which he points out that there are a number of Eskimo dialects, none of which is reduced to writing. Indeed, the State of Alaska, by constitutional amendment in 1976, decided that knowledge of one dialect or another was not necessary for voting. However, Alaska would be subjected statewide to the penalties of title II, and compelled to provide election materials and ballots in languages of the language minorities, which, I remind you, are not indeed written languages.

In other words, the test or device, of which the entire State of Alaska would be guilty because it did not print its ballots or election materials in the language of its language minority group, would be applied, irrespective of the penalties of this title because the Alaska voters are literate. I think the intent of this title and amendments to ballot in order to prevent ballot in one of several Chinese languages in order to register or vote. The only reference in the report refers to educational facilities for Asian Americans. There is no record relating to voting discrimination.

Turning to title II, which I will also move to strike, I would point out that the coverage would be far broader, although the penalties perhaps not as great. In other words, title III would impose the extraordinary relief which division in which 5 percent of the citizens of voting age were members of a single minority and where the illiteracy rate of such persons as a group is higher than the national literacy rate a requirement to provide election and voting materials, including ballots, in the language of the minority language group, as well as in the English language.

The requirements of title III will apply at once with respect to all elections, imposing the obligation to print ballots and all other election materials in the language of minority language groups. Many of which languages, as I indicated, do not exist in written form—with the only escape clause being that the District Court of the District of Columbia in a declaratory judgment shall find that the rate of illiteracy has risen so that the language minority group in question within the State or political subdivision is equal to or less than the national literacy rate. Let me add that illiteracy is determined arbitrarily by a Census Bureau finding that persons of the minority language group have a fifth grade education or less, a state of economic and social welfare of our citizens of foreign origin, or of distinct ethnic backgrounds, these provisions of the proposed Voting Rights Act could only serve to perpetuate and make permanent English language illiteracy.

Registration and voting are among the most treasured privileges of citizenship. But to guarantee that there is no need to be able to read or understand a written or mechanical ballot, and to build this into our statutory law, has the dual effect of denying the public obligation to assure a literate society and to excuse the States from enabling citizens from ever acquiring a knowledge of the English language sufficient for him or her to vote.

These titles of the bill, in my opinion, should be rejected as we move forward in the United States to eliminate the discrepancies which persist in the discrimination against black Americans whose fundamental voting rights were and continue to be the main subject and obligation of this Nation and of this Congress that the survey takers sent out by the Census Bureau advise the interviewees that the data obtained from their responses will be used solely for enforcing Federal voting rights laws—and for no other purpose.

Mr. Chairman, I would like to offer a brief explanation of two other amendments which I intend to offer to improve Section 102 of the bill that provides for Census Bureau compilation of voter registration statistics for determining whether the extraordinary remedies of-
ferred by this act will be triggered. It seems to me that the bill, as currently drafted, has two serious flaws in it with respect to its survey procedures.

First of all, section 403 directs the Census Bureau to conduct a survey in which the Bureau is to be useful in promoting voting rights of blacks and other minority groups such that we will be encouraging States to continue illiteracy patterns rather than encouraging them not to. Does the gentleman see some connection?

Mr. McCLOY. If the gentleman will yield, I think there is no question, if we mandate the printing of the ballots and voting information in these various foreign languages, that what will happen is that members of minority language groups will never get the initiative nor the incentive to learn the English language; and, consequently, we start down the road toward a bilingual or multilingual society, which I do not think we ever intended to become. So, a bill which mandates elections in languages other than English would discourage literacy in English.

Mr. CONYERS. I doubt that seriously. First of all, we have an obligation to people who may not be able to speak the English language and want to vote to be intelligent and to vote intelligently be provided with some other means, but I do not think that States bearing this additional burden and expense will want to continue this legislation. However, this legislation will also accelerate improvement by pinpointing those States which are flagging in their educative efforts and they will certainly be motivated in a new way to rectify this situation.

It just does not seem to me logical that we would expect this provision to promote illiteracy rather than discourage it.

Mr. McCLOY. If the gentleman will yield further, I hope that the gentleman is correct, but we do provide in all the States for assistance to voters, and we should do that, where they do not understand the ballot or they do not understand the language. We should continue to provide assistance to the voter, but to provide that all the voting information and ballots shall be provided in multiple languages is quite inconsistent with our society, which I think is a single language society in which we should try to encourage people to become literate in the English language.

Mr. CONYERS. I do not like to interrupt my colleague because he is on my time and I could not get any time on this, but, I would like to move on with another observation. It seems to me that one thing has been neglected in much of this debate and that is that there can still be quite serious voter rights problems, even if there is a high voter turnout. We can have section 5-type problems.

So, what people continually refer to the State of Texas as being somehow singled out and picked on when they have now complied with the requirements of bilingual legislation through the action of the State legislature, I think we forget that we would also be eliminating this State from section 5, which would pick up on many, many violations. So, in my judgment I think we ought to approach any amendments of this kind with great care and deliberation.

Mr. CONYERS. I yield to the gentleman from Texas.

Miss JORDAN. Mr. Chairman, I thank the gentleman for yielding.

The gentleman is absolutely correct. That is the point. But, the gentleman will acknowledge, upon learning that Texas may be included under the Voting Rights Act of 1965, passed a bilingual election bill. It was rushed through by the State legislature to take care of a small part of the problem: the English-only ballot where there is more than 5 percent of minority-speaking population. It does not relate one whit to the many country commissions and the many wards and the small wards and the small precincts that are in Texas and in other States. It does nothing about redistricting which was recently before the Texas Legislature and the many counties which still have many member districts which dilute the effect of the minority vote.

It does nothing about the integrity of the ballots that are being held by written election and the ballot is in one place and the ballot signs the stub in another place and there is a correlation between the ballot and the place where the ballot is signed which is a very serious violation. There is no consideration given to that question when we talk about bilingual ballots.

So the gentleman is absolutely correct. We will be ignoring the larger part of the problem in Texas if we simply let Texas ease out from under simply because of rushing through in haste legislation pertaining to the bilingual ballots.

Mr. EDWARDS of California. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. SEIBERLING). Mr. SEIBERLING. Mr. Chairman, this legislation as originally enacted and as it would be amended by this bill is an effort to bring into reality the rights guaranteed by the 14th and 15th amendments to the Constitution, amendments which were enacted into law about 100 years ago, and yet for three generations these amendments as far as voting rights were concerned were ignored for millions of our citizens.

Now three generations of abuses should be long enough to make us aware that we need to do something, as we did in 1965, but they should also be long enough to make us aware that the patterns of conduct that resulted in the denial of equal protection of the law and the denial of voting rights because of race or color are not patterns which have not been dissipated in a very short period of time. After 90 years of abuses, 10 years is a very short period of time.

These have been 10 years in which the right of equal educational opportunity have just begun to be recognized and implemented, in which discrimination has just begun to be eliminated, in which it is true hundreds of black officials have been elected in parts of this country where few or no blacks had been elected for generations. Yet the patterns which led to their exclusion in the past are patterns that are being continued either in the minds or in the hearts of some of those who would oppose or weaken this legislation.

I would like to address myself to two or three of the criticisms of and proposed
amendments to this legislation. First of all is the so-called Butler amendment, the so-called impossible ballot amendment. The Voting Rights Act as amended by this bill already provides for States to bail themselves out of coverage of this bill. If a State can come in and show that for a period of 10 years it has not had any tests or devices or any of the other abuses that trigger the coverage of this bill, that State can bail itself out from under the coverage of this law.

But the burden of proof is on the State that has the coverage. Now, the proposed Butler bail-out amendment—

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Virginia.

Mr. BUTLER. Is the gentleman familiar with the case of Virginia against the United States, in which we endeavored to prove ourselves out and we did, in fact. I know any test Virginia had not been used to discriminate. The Supreme Court of the United States in affirming per curiam the District court held:

That is too bad, that under the Gaston Doctrine you are conclusively presumed to have discriminated.

The Assistant Attorney General of the United States stated that there was no way an Attorney to come out from under the act, and Howard Glickstein, a very recognized authority, agreed with that, that there is no way for Virginia to prove itself out.

Mr. SEIBERLING. I agree with the gentleman; but all that proves is that the State of Virginia failed to meet their burden of proof.

Mr. BUTLER. No, quite the contrary. Mr. SEIBERLING. Or was unable to meet the burden of proof.

Mr. BUTLER. Virginia was commended for its great registration effort and it was said that our hands are tied because of the Gaston doctrine and that is the problem.

Mr. SEIBERLING. If the gentleman will yield further, because of the fact that the deprivation of the equal educational opportunity had made it impossible for the State of Virginia to meet the burden of proof.

Mr. BUTLER. The fact we had an unequal school system in 1964 is being used against us to establish that our modest literacy test was discriminatory and we were not allowed to prove that they were not.

Mr. SEIBERLING. The gentleman is proving my very point, that it is going to take—

Mr. BUTLER. I thank the gentleman. Mr. SEIBERLING. Mr. Chairman, that is my exact point. The gentleman from Virginia would provide that if a State had been a good boy for 5 years as far as Voting Rights Act observance is concerned, it can go in and show that fact to a court and bail itself out from coverage under the act. Then from that point on, unless the Attorneys resort the jurisdiction, the burden then shifts to those that would show that, nevertheless, the State has slipped into its old ways, a redivist, so to speak, and is back at the old stand discriminating against voting minorities in its State.

Mr. SEIBERLING. The gentleman has expired.

Mr. EDWARDS of California. Mr. Chairman, I yield 1 additional minute to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, during the debate in committee, much was made of the fact that one local government had to go in and get the approval of the Attorney General to narrow the doorway to the voting registrar’s office. I suggest that this is the very kind of thing, the subtle intimidation, that led to the passage of this legislation originally, and is the very reason why it is important to continue the act until people are not intimidated by this sort of thing.

I would like to make one other point and that is that it is very important that we keep the jurisdiction in the District Court of the District of Columbia. We not only need uniformity and in national standards, but we need to have these cases brought up in a court where the judges are not likely to be subjected to local pressures, but can objectively carry out the intent of Congress in enacting this legislation.

For that reason, I would suggest that we not adopt a proposed amendment to transfer jurisdiction under this act to Federal district courts all over the country.

The CHAIRMAN pro tempore. The time of the gentleman has again expired.

Mr. BUTLER. Mr. Chairman, I yield 1 additional minute to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, is the gentleman seriously suggesting we should extend the voting rights amendment for 10 years? We have no legislation that in some remote county we might narrow the doorway to the registrar’s office?

Mr. SEIBERLING. No; I am suggesting that that example was used as an argument that we should not extend some of these provisions. I am saying it is just that kind of thing that needs to be reviewed, because in certain cases it could be used for intimidatory purposes.

Mr. BUTLER. If we already have the narrow existing hallway to the registrar’s office, is there anything in the Voting Rights Act which would make the localities widen its hallway?

Mr. SEIBERLING. I know of nothing, unless the narrowness had been used for purposes of discrimination in voting rights.

Mr. BUTLER. Then it would have to be under section 3.

Mr. SEIBERLING. That is correct. But the gentleman realize that if they had a narrow hallway existing prior to the Voting Rights Act and they wanted to get out from under, that under the bail-out amendment they would have to come in and prove that they had put a wider hallway in and adopted a legislative program that would put aside all those subtle discriminations which we cannot do anything about because they are frozen into the law under the Voting Rights Act.

Mr. SEIBERLING. The gentleman is his own best expert on the Butler bail-out amendment.

Mr. BUTLER. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio.

Mr. KINDNESS. Mr. Chairman, I thank the gentleman from Virginia for yielding to me.

First, I would like to point out that in the colloquy which has just preceded these remarks, the point was made that these cases, the litigation concerning declaratory judgments to allow States out from under the coverage of the act, should be brought in the U.S. District Court for the District of Columbia, one judge in the place where expertise is supposedly developed.

Mr. Chairman, there have only been been three cases, and I would wager that there were not two of them which were heard by the same judges involved in the District Court for the District of Columbia.

There is no such thing as the development of any expertise on this subject for the District Court for the District of Columbia. This is a very hollow point.

Where other litigation belongs in the district court in the appropriate Federal districts throughout the country, it seems to me that there was no reason, and no reason has been cited, why this type of case should be treated differently. It is an insult to the Federal district court judges and the Federal court system to suggest that they cannot decide cases any place other than the District of Columbia on a fair and reasonable basis.

Mr. Chairman, it has also been suggested in the preceding remarks that a “10-year period of purgity” is what would be involved if this bill passes in its present form. The Members should not rely only upon the word of the other gentleman. If they would like to find out just what it would be, they can read the bill. It would be 20 years—not a “10-year period of purgity” is what would have to be added to the bill. Any provision of the Voting Rights Act before a declaratory judgment could be obtained.

Mr. Chairman, there is one other amendment I did not mention in my remarks a little earlier which I will offer on the House floor tomorrow, which is closely related and is a germane topic for the amendment to the bill which would forbid voting more than once in a Federal election.

Section 11 of the Voting Rights Act of 1965 currently regulates voter fraud and conspiracy in Federal elections. Severe criminal penalties are provided to punish anyone who knowingly gives false information for the purpose of establishing eligibility to register or vote. But, no criminal law prohibits anyone from voting twice—and this can occur in at least seven States which have no law prohibiting voting in more than one location. Thus, a person voting in Wyoming...
could move to Arkansas and register, where he could register within 30 days without having to give up his Wyoming registration. If such a person were to vote twice in a subsequent Federal election, no law would be violated. And I have no reason to believe that if it is passed we will encourage people not to develop a mastery of the English language. Und ich sage Ihnen, Mr. Chairman, will the gentleman yield?

Mr. KRUEGER. Mr. Chairman, we have been told that this amendment is somehow directed against Texas and that there are abuses there. And it is my State, and there are.

We have been told that this amendment somehow encourages illiteracy and that if it is passed we will encourage people not to develop a mastery of the English language. Und ich sage Ihnen, daß ich vier Jahre alt war, dann konnte ich nur Deutsch sprechen. Was machen Sie, nur wählen Sie, bis ich 4 Jahre alt war, ich lernte nur Deutsch.

I want very much for the citizens of my State to have the protection of the Federal Government, and I hope some day that those from other States who seem to think that this bill is aimed simply at Texas will seek the same protection for the people of their States.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. KRUEGER. I will be glad to yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, I want to commend the gentleman and I would like to associate myself with his remarks. It is one of the most eloquent statements on behalf of the Voting Rights Act which I have ever heard, and I commend the gentleman for his statement.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. KRUEGER. I will be glad to yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Chairman, I do want to thank the gentleman for his very persuasive and eloquent statement.

Mr. KRUEGER. I thank the gentleman.

Mr. EDWARDS of California. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. Gonzalez).

Mr. Gonzalez. Mr. Chairman, the record produced by the hearings on the Voting Rights Act, printed on instructions of this August, has been given to the Committee on the Judiciary, and particularly the report on the bill as it pertains and makes specific reference to my native city of San Antonio, is not only seriously misleading, it is an outright mendacious fabrication of the truth.

The statement on page 20 of this report, where it says that the city's 1972 annexation was intended to dilute minority voting strength, is not only just plain misleading, but I repeat, it is a lie. Mr. Chairman, I ask that the record note that I yield the right to any member of this Committee and therefore this report was not available to me until fairly recently, a few days ago—and I repeat, until I read this report, I had never heard any such complaint. I read the hearing record, which, incidentally, I was not able to obtain, again, until late last week, during the recess. It makes no case that there was any such intention.

There are complaints about at-large elections and not having single-member districts. This entire legislation does not do anything about those issues, and it cannot. There is nothing that I know—and I stand to be corrected if I am wrong—but if I interpret this extension and amendments correctly, they have absolutely nothing to do with single-member districts or with that kind of irregularity. Moreover, just to cure whatever effect requiring a majority runoff might have, for instance, there were complaints about having to runoffs majority runoff no runoff, a minority candidate would lose. I just do not know that this bill does anything about that.

Mr. Baldillo. Mr. Chairman, will the gentleman yield?

Mr. Gonzalez. Mr. Chairman, I will not yield at this time because I have to clear this record, and I have been yielded only 5 minutes. It is important that I clear the record because the outright lie concerning the city of San Antonio, I will fully document that, and I intend to do it, I cannot, however, do it in 5 minutes if I am interrupted.

Mr. Chairman, nothing about this so-called annexation bill goes to the reason for this bill. The only reason that I can see that all these discussions have been going on concerning all the irrelevant issues about this bill is an attempt to generally indict the Texas Legislature.

The Chairman pro tempore, the time of the gentleman from Texas (Mr. Gonzalez) has expired.

Mr. Gonzalez. Mr. Chairman, will...
Chairman,

I want to yield the gentleman from Texas an additional 2 minutes. Under Texas law there is no county zoning power. If you want to control and/or impose city building codes, then you have to annex the area, but there is no limit on how much you can annex on the part of the municipality. Therefore the problem is, how do you prevent the growth of these little bedroom cities that develop and take advantage of the city services, but pay no city taxes? We have had a lot of that in San Antonio, just as I am sure the Members of the Congress have had it. Also such an enclave can get city water, use all of the city services, get city bus service, and yet pay nothing toward those services. This bill does not do anything about that.

Up until the time I was on the city council these little places could arise suddenly. It is not that bad any more, but the truth is that it is unauthorized to allow these places to keep mushrooming.

Well, how do you, under Texas law, do this so as to prevent the incorporation of these little places? The law of Texas says you cannot incorporate a town within the extraterritorial boundaries of a city. That is a kind of buffer zone, a kind of nobody setting up a town on the existing city limits. That is the main purpose.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

Mr. GONZALEZ. Mr. Chairman, I would ask unanimous consent to continue for an additional 5 minutes.

The CHAIRMAN pro tempore. The Chair will state that the gentleman from California has 5 minutes. Does the gentleman from California wish to yield additional time to the gentleman from Texas?

Mr. EDWARDS of California. Mr. Chairman, one of the problems we are faced with today is that the Committee on Appropriations was supposed to be taking up an urgent bill on the floor of the House. I am very glad to yield to the gentleman from Texas if the gentleman wishes to do so under those circumstances.

I am a friend of the gentleman from Texas, and I will yield the gentleman all the time he wants.

Mr. GONZALEZ. I would like to have an additional 5 minutes. This is a grave issue. The tax bill is important, yes, but so is this, because this has to do with clearing the record.

Mr. EDWARDS of California. I will yield the gentleman from Texas 5 additional minutes.

Mr. CONVERS. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I will yield to the gentleman from Michigan for a brief question.

Mr. CONVERS. Mr. Chairman, this would be very brief.

I would ask the gentleman from Texas where in the report on page 20 does the gentleman from Michigan say that San Antonio is an injustice? Precisely what is incorrect in the report?

Mr. GONZALEZ. The report says: In 1972, in Pearsall, Texas—

Which is a municipality outside of the county that San Antonio is situated in, and is about 55 miles down the road—

the city Council, while refusing to annex compact contiguous areas of high Mexican American concentration, chose to bring a 100 percent Anglo development within the city.

The city of San Antonio, mind you, it is being dumped in with the city of Pearsall. That is a gross injustice right there.

The City of San Antonio, in 1972, made massive annexations including irregular or finger annexations on the city’s heavily Anglo northside. The population breakthrough in the areas annexed was overwhelmingly Anglo, although the city was previously almost evenly divided between Anglo and Mexican Americans (Hearings, 369).

Mr. CONVERS. That is correct, is it not?

Mr. GONZALEZ. As far as it goes, but it mentioned nothing about the other annexations in which they had massive concentrations of Mexican Americans. The context of this report, as I think the gentleman from Michigan can see it, and also, I am sure, he would not dispute it, the impact of this statement is that any reader would believe that the city of San Antonio has finger annexed only a community because it wanted it to exclude of Mexican Americans, or other ethnic minorities.

That is the plain thrust of this, and that is not true. That is a lie. Nobody on the gentleman’s committee, on the staff, or on the city would have had anything to do with the writing of this paragraph ever bothered to get the history of annexation or get the facts or the truth, and that is why I am here in the well trying to clear the record.

Mr. CONVERS. Might I ask the gentleman if it is correct where it is stated on page 20 that although the city, referring to San Antonio, was originally almost evenly divided between Anglo and Mexican Americans.

Mr. GONZALEZ. That is not true. That is not true. I have the statistics that I wish to make part of the record in order to describe this misstatement.

The truth of the matter is that San Antonio historically and notoriously the Mexican American in effect is the majority at this particular time. He is not in the majority at the time this report was published, population-wise. This is simply an absolute fabrication. Nobody who has been responsible for this statement ever bothered to check with any official in the city either to get the history of the annexation or the truth of the annexation or the truth of the historical development of the city of San Antonio. I think that we would be derelict if we were not to correct on the record in general debate, which is the only opportunity I have, this serious misstatement on the part of the committee in issuing this report to accompany the act.

To continue, as I said, there is no county zoning law in Texas, so if we have a situation of a city like San Antonio or any other similarly situated city, their basic question is, How can we plan and insure an orderly development? This so-called 1972 spoke or finger annexation had one primary purpose and that was to get the city of San Antonio or any other city over the aquifer which provides the sole source of water for the city of San Antonio.

Where do we come in here with any attempt to discriminate against any voter? There is just absolutely not one scintilla of evidence, or fact or thought in this, and I think that as Members of Congress, or even members of the staff, we have to have a deep veneration for the facts and the word. I just think it is abominable that such a distinguished committee as the Committee on Jurisdictions would issue an imprimatur to publish a report that would be such a gross and misleading fabrication, and I want no doubt in anybody’s mind that I strongly protest it.

The law in Texas says we cannot incorporate a town with those extraterritorial jurisdictions that the legislature has given incorporated cities, so we have some buffer zones, and they could be strange zones. In fact, to talk about voter discrimination, we ought to worry about economic discrimination because of that practice, and certainly this act has nothing to do with that.

San Antonio could not get control over subdivision growth in any way except the use of this annexation technique. It could not take in all of the areas that it needed any zoning control. The city cannot exercise any zoning control, so the city annexed spokes of land down highway areas and developed areas.

That gave the city a zone of jurisdiction that went to those spokes, and allowed San Antonio to get the kind of basic control that any reasonable mind would desire.

The law in Texas says we cannot incorporate a town within those extraterritorial jurisdictions that the legislature has given incorporated cities, so we have some buffer zones, and they could be strange zones. In fact, to talk about voter discrimination, we ought to worry about economic discrimination because of that practice, and certainly this act has nothing to do with that.

San Antonio could not get control over subdivision growth in any way except the use of this annexation technique. It could not take in all of the areas that it needed any zoning control. The city cannot exercise any zoning control, so the city annexed spokes of land down highway areas and developed areas.

That gave the city a zone of jurisdiction that went to those spokes, and allowed San Antonio to get the kind of basic control that any reasonable mind would desire.

The law in Texas says we cannot incorporate a town within those extraterritorial jurisdictions that the legislature has given incorporated cities, so we have some buffer zones, and they could be strange zones. In fact, to talk about voter discrimination, we ought to worry about economic discrimination because of that practice, and certainly this act has nothing to do with that.

San Antonio could not get control over subdivision growth in any way except the use of this annexation technique. It could not take in all of the areas that it needed any zoning control. The city cannot exercise any zoning control, so the city annexed spokes of land down highway areas and developed areas.

That gave the city a zone of jurisdiction that went to those spokes, and allowed San Antonio to get the kind of basic control that any reasonable mind would desire.

The law in Texas says we cannot incorporate a town within those extraterritorial jurisdictions that the legislature has given incorporated cities, so we have some buffer zones, and they could be strange zones. In fact, to talk about voter discrimination, we ought to worry about economic discrimination because of that practice, and certainly this act has nothing to do with that.

San Antonio could not get control over subdivision growth in any way except the use of this annexation technique. It could not take in all of the areas that it needed any zoning control. The city cannot exercise any zoning control, so the city annexed spokes of land down highway areas and developed areas.

That gave the city a zone of jurisdiction that went to those spokes, and allowed San Antonio to get the kind of basic control that any reasonable mind would desire.
around the city, just like the spokes of a wheel.
That is why irregular annexations exist.
San Antonio did make a giant annexation in 1972, and I think that anyone
who knows the facts of the situation will be able to tell you that the purpose
of that was anything but discriminatory.
The City can not annex anything, except by petition, for a number of years.
Huge new facilities had mushroomed outside the city limits. There was a need
to provide services to those areas. The annexation needed to serve those areas.
So it was done. In 1972 San Antonio annexed much of the area that it had pre-
viously controlled by means of its spoke annexations.
I have obtained a complete statement from the San Antonio city attorney with
respect to those annexations, and make that a part of the record. I also have a map
illustrating those, and will show it to anybody having any questions to ask.
And I will make part of the record statistics relevant to those questions.
I hope, Commissioner, Bill, in order to protect voting rights, to make mis-
leading statements, as was done here in the case of San Antonio, I hope that I have
been able to straigten the record out.
San Antonio did make annexations, and they do look irregular. But the inference
drawn is wholly incorrect and not supported by anything in the record of hearings.
There is much to debate about here. The rate of voter participation can be
affected by many things. It could be affected by low enthusiasm. Candidates
without much to say, or the dearth of candidates, might cause low participa-
tion. The Republican Party in Texas was only invented a decade or two ago, and
in Bexar County in 1956 it was only in-
vented as a means of getting some general election opposition for me. The Re-
publicans are not a factor in Texas poli-
tics, of that there is no doubt, and they are especially not much of a power
in San Antonio. So there is not a lot of excitement about elections sometimes.
Maybe that accounts for low enthusiasm. No one can say for sure.
No one can say for sure, we can speculate, but we have no real basis for drawing
any conclusions.
It seems to me that what we ought to be
considering here is whether or not to accept a whole new Federal election code.
Maybe we should treat all juris-
dictions alike. But it is certain that if
this whole bill is predicated on state-
ments like those about San Antonio, it is plain erroneous. This error, and I
think it is not intentional, nevertheless
makes me wonder whether I can sup-
port the bill.
I am in a dilemma here: I want full
equality of voter participation. I have worked for human and political rights
throughout my career. And yet here I see a bill that would affect my own city
in a way that is wholly uncalled for, based on a complete misstatement of the
facts. I am afraid which worst of all would not in any way resolve the
grievances complained of. It would not change the existence of at-large dis-
tricts. It would not eliminate runoffs
in elections. It would not do anything
with those things at all—yet those are the
grievances most often alluded to, most
documented, and most argued of. This bill would not really change anything in
the case of San Antonio.
Mr. Gonzalez. Mr. Chairman, I ask
unanimous consent that I be allowed to
proceed for 1 additional minute.
The CHAIRMAN pro tempore. The
gentleman will suspend.
Mr. Gonzalez. Mr. Chairman, I in-
clude the following information:
BRIEF HISTORY OF SAN ANTONIO ANNEXATIONS (1965-75)
I. GENERAL LAW
Municipal annexation power is a legisla-
tive function delegated to cities by statute. Under Art. 679(a), Tex.
CIV 1ST. ANNO., the annexing city, on
motion of council or otherwise, may decide to annex
land adjacent to its ETJ, its ETJ (but not
its ETJ), or its ETJ and the land
immediately adjacent. See Vernon's Anno.
TEX. STAT. AND STATE EX REL PAN AMERICAN PRODUCTION CO. VS. TEXAS CITY, 309 S.W. 2d 780.
City governments have always had one or
two of the following motives in annexing
land adjacent to its ETJ: (1) To control the growth and development of the
City (Texas cities have no zoning con-
solidation)
1969, the City has annexed
in State v. City,

Also resulted later, challenging this de-
walking county. In 1965, San Antonio annexed from the above, annexed roads and highways out to the limit of its ETJ, but such annexa-
tions included only the roads and highways.
The result was as above stated. Several law-
suits also resulted later, challenging this de-
vice, but the City won them.
This broadest of ETJ had a good deal to
do with San Antonio's failure to make
any significant annexations until 1971. After all, the City had annexed

PATTERN OF SAN ANTONIO ANNEXATIONS FROM 1965 TO 1971
As of January 1, 1965, San Antonio con-
tained 176.8 sq. miles. Since that time, the
City has annexed land in several
112 separate annexations, almost all of which were "petitioned" annexations and
thus did not count against the City's yearly
annexation allotment. Each of those
annexations involves a subdivider who has gotten
his plat approved by the Planning Commis-
sion, having originally purchased the land
when it was in the ETJ. His motive for re-
questing annexation is desire for City serv-
ices (sanitary sewer service and a water main to).
The great bulk of San Antonio area de-
development has been to the northwest, north, and northeast and this is where most of the annexation was made. The depression trend to the Northwest, North and Northeast has progressed faster than to the West and South for the development of the location of the UTSA and the medical hospital facilities on the North and Northwest sides, the topography of the San Antonio region together with this development has to a large degree forced such a pattern.

For instance, the general fall of the land is in a generally north-south direction from the north and northwest. The elevation of the land to the south side of San Antonio is much flatter and has small grade differentials. This results in much more area of land on a percentage basis being subject to periodic flooding as well as taking longer for run-off of such waters. Additionally, as the waste water systems of the City are on the main gravity flow, the regional treatment facilities have all been located on the south side within the watersheds of the various natural drainageways. As these lines terminate at the points, there are on an almost flat gradient and of very large size as well as approaching being a pressure system. Accordingly, planning and construction of systems adequate to support development in the far south side of San Antonio would be difficult, both in construction and operation, without construction of additional major treatment facilities some distance further to the south of San Antonio. The result has been that the economics of development has been to portions of the area directly around the City other than south-west and south.

Still another factor which to some degree forced some of the area to the south is the availability of possible drinking water. Again, because of the underground formations, developers have determined it is more advantageous to develop areas where a water source is readily available through either City's system or the development of their own, and the existing formations on the south side do not produce the quality desired.

There have been three notable exceptions to our "petitioned annexations" in the past 10 years. The first was the UTSA annexation in 1971. The second was our massive development in 1971 which annexed the area around the north-west and south. The third was our recent (1974) Randolph Field annexation in 1972, annexation. The third was our recent (1974) Randolph Field annexation.

The Randolph Field annexation

In 1973, Air Force officials decided to be concluded an area immediately south of Kelly Field and asked for San Antonio's cooperation in controlling such buildings. (Both ground and flight safety were primary concerns). Largely to accommodate the Air Force, San Antonio, again using a spoke as in UTSA, annexed about 9 square miles in the area in question in order to impose zoning restrictions upon the same. This annexation has been contested in the Federal Court and currently the City has prevailed. The case is now on appeal to the Fifth Federal Circuit Court.

This area is sparsely settled, but is active agriculturally. It really is not "municipal" land, but zoning was needed, as aforesaid.

V. CONCLUSION

From what has been stated thus far it is easy to see that San Antonio's annexation over the period 1965-1973 may be described as a "spotted" one for the achievement of "bedroom" cities, acquisition of tax revenues, control of growth and development of the City. Two major annexations, the UTSA and Randolph, were largely at the instance of the State and of the Air Force, and removed of the area immediately surrounding area be afforded City services, particularly fire and police protection, water and sewage. The area annexed was roughly 19 square miles and had to be reached by a "spoke" which had been previously annexed by the City.

This area was sparsely populated except for a small unincorporated, but newly developed, area called "Hills & Dales" (some of the UTSA). The second was our massive development in 1974, annexed essentially the same area and this was not challenged (December, 1972).
Mr. EDWARDS of California. Mr. Chairman, I yield myself an additional 2 minutes.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield further to me long enough for me to submit into the Record, if the gentleman desires proof, a statement from the office of the Attorney General, and therefore the effect of the annexations of the city of San Antonio, together with the facts surrounding the city's annexation in 1972? If the gentleman says he is interested in proof, would he accept this, and I will ask unanimous consent now that this be accepted into the Record.

Mr. EDWARDS of California. That cannot be accepted into the Record now. That has to be done in the House.

If the gentleman will present it to me I will be interested in reading it.

Mr. BADILLO. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from New York.

Mr. BADILLO. Mr. Chairman, this bill does have to do with annexation and with single-member districts. It is not that it is mentioned in the bill, but the fact is that once a district becomes covered, then any change in procedures to alter districts or any annexation becomes subject to preclearance by the Attorney General, and therefore the effect of covering the State of Texas under this bill would mean that any future redistricting, any future change would be subject to preclearance. Therefore, although it does not appear in the bill as such, these actions would be covered and have in fact been covered in the seven States which are presently subject to the jurisdiction of the law.

Mr. MCCLOERY. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Colorado.

Mr. MCCLOERY. Mr. Chairman, it is perfectly clear that the evidence for the extension of the Voting Rights Act is so completely unreliable, in contrast to the substantial evidence that we had when we enacted the original Voting Rights Act in 1965, that we should give very thoughtful consideration to a flat simple extension of the Voting Rights Act without this terrible expansion which is intended to include all kinds of other minorities than the black minority, who were entitled to this kind of support when we enacted the original Voting Rights Act in 1965.

Mr. BUTLER. Mr. Chairman, I yield 5 minutes to the gentleman from Colorado (Mr. JOHNSON).

Mr. MARTIN. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from North Carolina.

Mr. MARTIN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, although no board of election in my district is currently engaged with the Voting Rights Act, I could very well face action from time to time under the Wiggins substitute, I rise in support of the amendment in the nature of a substitute offered by our colleague from California (Mr. Wiggins). I have no objection to a uniformly fair and evenhanded standard being applied across the country.

Much has been said here today in praise of the Voting Rights Act and I would praise in that regard what has been said. In the recent past the act served the Nation well in bringing minorities into the political process and effectively ending racial discrimination at the voting booth. Denial of access to political participation on the basis of race was and is morally as well as constitutionally wrong. The Voting Rights Act ended it. For that we should be grateful.

While I do not represent an area covered by the act, I recognize the problems with the act and support the way they can be cured by the Wiggins substitute. The extension proposed by the committee would lock in place the act's supervisory mechanisms regardless of whether or not a jurisdiction has ended its discriminatory practices. The committee proposes to extend a State's punishment based upon its history without relation to its progress. The Wiggins substitute provides an incentive for covered jurisdictions to maximize minority participation, something the committee's extension does not do.

These walls heard debate 115 years ago about erring sisters being allowed to go in peace. Shortly thereafter, the Union preserved, it was briefly fashionable to treat the erring sisters as pariahs, as conquered provinces. Today, we recognize that the Voting Rights Act was necessary for a while. I am sure most of my neighbors representing districts covered by the act could very well face action from time to time. I am sure most of my neighbors representing districts covered by the act could very well face action from time to time. I am sure most of my neighbors representing districts covered by the act could very well face action from time to time. These walls heard debate 115 years ago about erring sisters being allowed to go in peace. Shortly thereafter, the Union preserved, it was briefly fashionable to treat the erring sisters as pariahs, as conquered provinces. Today, we recognize that the Voting Rights Act was necessary for a while. I am sure most of my neighbors representing districts covered by the act could very well face action from time to time. These walls heard debate 115 years ago about erring sisters being allowed to go in peace. Shortly thereafter, the Union preserved, it was briefly fashionable to treat the erring sisters as pariahs, as conquered provinces. Today, we recognize that the Voting Rights Act was necessary for a while. I am sure most of my neighbors representing districts covered by the act could very well face action from time to time. These walls heard debate 115 years ago about erring sisters being allowed to go in peace. Shortly thereafter, the Union preserved, it was briefly fashionable to treat the erring sisters as pariahs, as conquered provinces. Today, we recognize that the Voting Rights Act was necessary for a while. I am sure most of my neighbors representing districts covered by the act could very well face action from time to time.
from now to reenter the political life of the country cleansed of discrimination and with a strong incentive to remain cleansed.

Mr. JOHNSON of Colorado. Mr. Chairman, I am strongly in favor of the Voting Rights Act which protects the rights of every individual in the country to vote; but I would like the attention of the gentleman from California (Mr. EDWARDS).

I would like to point out to the gentleman, because I think it is illustrative of the problem that I have with the bill, as one who is nominally in favor of it. I would like to point out one of the problems we have in this little area of northern Colorado, we have three counties with populations of less than 5,000. There is Clear Creek with 4,784; there is Jackson with 1,800 and there is Sedgwick with 3,405. I have a total of nine counties which qualify, and only three of them have a population of 20,000 people.

Now, each of these small counties as I understand which qualify under the bill have to come back to the District of Columbia to "bail out" of the provisions of the bill, or else they have to print their ballots in both Spanish and English. Now, as I understand the provisions-

Mr. EDWARDS of California. Mr. Chairman, would you explain your yield?

Mr. JOHNSON of Colorado. I might say to the gentleman that we already checked these figures. I know about those nine counties that qualify.

Mr. EDWARDS of California. Pardon me, I did not get that.

Mr. JOHNSON of Colorado. Before they can bail out, they have to print those ballots in both Spanish and English. To bail out, they have to come back to Washington, D.C., and get permission from the district court back here. That does not make any sense to me whatsoever.

I have been in every one of those counties recently. I have never had a complaint that anybody is being discriminated against in registration or anything else. I have been so preoccupied about the district court in Colorado, why cannot the district court in Colorado make a determination that these counties should be able to bail out? It is hardly worth their while to come back here to the District of Columbia to be exempted under the provisions of the bill. What is wrong with having a district court locally make that kind of determination?

Mr. EDWARDS of California. Well, it was determined in 1965 that it would work much better and be more appropriate for the district courts in Washington, D.C. to handle those matters. It has worked very well. I believe that the committee would resist the amendment which is coming up tomorrow. I certainly would hope that the amendment that is to be offered tomorrow would be defeated.

Mr. JOHNSON of Colorado. I would ask the gentleman, is he saying that because of what happened in 1965 we are writing legislation that is not more effective?

Mr. EDWARDS of California. I have read the testimony that shows we have all kinds of serious problems in voting discrimination in this country today. The situation has improved to a point, but we are concerned for continuation of the present provisions of the Voting Rights Act.

Mr. JOHNSON of Colorado. The gentleman is in effect saying that the U.S. District Court does not have a right to order qualified, so unresponsive to the law that we cannot let something like this be decided in the U.S. District Court of Colorado, because in that jurisdiction the district court of Colorado is incapable of making a fair decision; that we have to come back to Washington because that is the only place we can get a fair decision. That is an absurd position on its face.

Mr. EDWARDS of California. The gentleman will have the opportunity to demonstrate that to the House at the proper time.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. The gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, actually, the Department of Justice desires to centralize all litigation about this matter right here in the District of Columbia. If they had cases all over the country, they would have their attorneys going out with extensive documentation to Colorado, Texas, and Massachusetts. The Department of Justice in this and other areas of national importance feels that they should build up a body of jurisprudence right in the District of Columbia and it is they, more than the civil rights group, that really want to locate this here, rather than the regional aspects.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, might I just ask an additional question? That is, in the original instance there was so much racial animosity that involved these cases that many judges, many Federal judges sitting in parts of the South, were so seriously intimidated and so threatened that it was considered that it was a very important reason. That is not to suggest that this is going to be the case in the gentleman's State or in other States, but it is a general application that is very, very necessary.

Mr. BUTLER. Mr. Chairman, I yield 3 additional minutes to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, I certainly like to make a comment, because I understand the gentleman's point of view, but he is imposing a burden in an area of the country where it is not justified. I do not know why we cannot work out some legislation which would prevent that kind of a burden being imposed.

Mr. BUTLER. Mr. Chairman, the people in the area of Colorado of which I am aware, where they are illiterate in English and speak Spanish, most probably are illiterate in Spanish. They have not had schooling in Spanish, so we are going through an additional expense of setting up a procedure where we cannot go through the easy way of exempting these counties.

I do not believe we ought to exempt all the counties. The burden is on the county, but it ought to be done in an area where it is convenient. I can give the committee four more counties where the population is less than 10,000. They have a county attorney, and the gentleman from Massachusetts (Mr. DRINAN) says they should come back here because it is convenient for the Federal Government. They have to bring all their proof and everything back from a county in Colorado.

Jackson County has a population of 1,800 and has a part-time county attorney. He should come to the District of Columbia because it is inconvenient for the Justice Department to go out there to Colorado. That does not make any sense to me.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, the argument just made by the gentleman from Massachusetts to the effect that we are building a body of expertise among the judiciary in Washington does not hold up. We called the Clerk's office and got these statistics:

During the time of this act, only 10 bailout cases, including one brought by the Attorney General, were brought under the Voting Rights Act. Fourteen judges sat on the three judges panels. Only two have decided four cases and one has decided three cases. The other 11 set were consents. Only three resulted in decisions other than consent decrees. Thus, even in these cases, no expertise has been developed.

Concerning the likelihood of decisions remaining and that litigation must be centralized in Washington to save the Government from litigation, only 10 suits have been filed in 10 years. In Honolulu, they have chosen to ignore Washington and have gone forward even though they are under the act. The gentleman may consider that alternative, although if he does that, he runs the risk of every voting problem we have being held illegal in a later litigation.

Mr. CLAY. Mr. Chairman, it has been said that the Voting Rights Act of 1965 is the single most important piece of civil rights legislation in history. The relative merit of such claims notwithstanding, I can say with some real assurance that this legislation, like none before it, has effectively begun the process of guaranteeing the most fundamental of those essential rights descriptive of any truly democratic society, the right to vote. Certainly, until the award of the basic franchise is in reality universal,
from the large urban metropolitan areas of the eastern seaboard to the most remote and backward areas of the Deep South, America cannot in good faith pretend to democratic laurels it has not earned. No doubt in the last 10 years, we have made notable progress but we have yet a long course to travel. There remain millions of Americans who are denied the right to vote for no other reason than the color of their skin, the foregone of their tongue or the simple want of English literacy.

The Voting Rights Act of 1965 as extended in 1970, prohibits racial discrimination in voting everywhere in the United States. But Mr. Chairman, certain key provisions of this historic legislation are only temporary. Unless the Congress acts with constructive dispatch, these provisions, and the national suspension of the use of tests and devices as a condition for registering and voting enacted in 1970, will expire in August 1975.

Should these temporary provisions expire, the remaining provisions will be rendered virtually meaningless; that is, remedial legislation with no practicable mechanism for enforcement. Under the existing law, the following safeguards are afforded: Section 4 suspends the use of literacy tests and devices as conditions precedent to registration and voting in subdivisions where registration or turnout for the Presidential elections of 1964 or 1968 were less than 50 percent of the voting age population; section 5 disallows any change in a given jurisdiction's voting laws without prior approval of the proposed changes by the U.S. Attorney General or the district court for the District of Columbia, either of which is charged with deciding whether or not the proposed change is discriminatory in purpose or application; sections 6 through 9 empower the Attorney General and the Civil Service Commission to appoint examiners and observers to watch over questionable elections and, when necessary, list eligible voters for registration.

If these provisions that make up the act are allowed to lapse, the responsibilities are allowed to expire, any of the presently covered jurisdictions may remove itself from supervisory coverage by demonstrating to the district court for the District of Columbia that it had not used a discriminatory test or device for 10 years. Once the provisions expire and the jurisdictions are released, they would then be free to resume the use of literacy tests and other obstructing devices; they would not be required to present electoral laws for preclearance as rerouting the final shredding of the Attorney General would have no further authority to send examiners or observers. In effect, with the task but half complete, the Voting Rights Act would become a legal fiction.

Mr. Chairman, the House Judiciary Subcommittee on Civil and Constitutional Rights Act has given its approval to H.R. 6219, a measure if passed by the House, would be enacted and signed by the President would:

First. Extend the temporary coverage of the 1965 Voting Rights Act for 10 years;

Second. Permanently ban literacy tests; and

Third. Expand the Voting Rights Act to cover more than 6 million Spanish-speaking citizens, as well as native Alaskan, Aleutians, and Inuit Americans.

Mr. Chairman, I strongly urge my colleagues to support this extension bill. To do less would constitute a clear retraction of our national commitment to the safeguarding of the most threshold of rights.

Recently, Mr. Chairman, upon reading a report published by the U.S. Commission on Civil Rights entitled, "The Voting Rights Act: 10 Years Later," I was deeply impressed by the gains we have achieved but equally alarmed by the distance we have yet to go.

It is Indeed encouraging to find that since passage of this legislation, more than 1/2 million new voters have registered in the South; that by January 1972, the black voting age population in the 7 southern States had increased from 29.3 percent of the black voting age population to 56.6 percent, and that the gap between black and white registration had decreased from 47.3 percentage points to 11.2 percentage points.

These data clearly illustrate real progress but it remains principally important to remember that we are still in the early stages of eradicating the odious stain of centuries of discrimination, that were these temporary provisions not extended, the likelihood would be that we would find ourselves back at the starting point.

It is significant to note that 105 years after the ratification of the 15th amendment and 10 years after passage of the Voting Rights Act, 2/3 million blacks today in the South remain unregistered. Though comprising large segments of the population in each of the covered seven States: Mississippi, 37 percent; Alabama, 37 percent; Louisiana, 36 percent; South Carolina, 34 percent; Georgia, 32 percent; North Carolina, 39 percent; California, 22 percent; Virginia, 18 percent; et cetera—no blacks holds statewide office in any of them. Nor does black representation in any of the State legislatures correspond with the black proportion of the voting age populations in the respective States.

It is of no small and revealing consequence that whites throughout the South are still very much in control of the electoral machinery. Verified reports abound detailing accounts of lost ballot boxes, inconvenient registration hours, and inaccessible locations for voting and registration. The results: Blacks remain underrepresented even in the 84 southern counties where blacks comprise voting age majorities.

For these reasons among others, the real implications of a congressional failure to extend the special provisions are frightening, more especially in view of one significant fact: Based on the 1980 census, by 1985, all States and many local jurisdictions will have redrawn lines for representative subdivisions altering constituencies from town council and county to congressional districts. Mr. Chairman, I think none of us here has any illusions about the outcome of this redistricting process should the section 5 preclearance requirements be removed. The small gains that blacks have made to date could be all but wiped out by those remaining unreconstructed whites in power who still resist the command of the 15th amendment.

In summary, Mr. Chairman, if the national ban against the literacy test is not continued. By March 1974, 12.9 percent of blacks over 25 years of age have received less then a year of formal education. For Mexican-Americans, the figure was 27.2 and 19.5 percent overall for Spanish-origin populations. As discouraging as these measurements may be, illiteracy is hardly a disability peculiar to blacks and Spanish-speaking Americans. In absolute numbers, more whites living in America are functionally illiterate than are minority group members.

Mr. Chairman, it is safe to assume that if the literacy test ban is not extended, millions of voting age Americans—blacks and whites alike—would be systematically discriminated against. Not only would blacks' voting rights be reduced but the legitimate exercise of fundamental rights by the non-white population would be established on a discriminatory basis.

As discouraging as these measurements may be, illiteracy is hardly a disability peculiar to blacks and Spanish-speaking Americans. In absolute numbers, more whites living in America are functionally illiterate than are minority group members.

Mr. Chairman, it is safe to assume that if the literacy test ban is not extended, millions of voting age Americans—blacks and whites alike—would be systematically discriminated against. Not only would blacks' voting rights be reduced but the legitimate exercise of fundamental rights by the non-white population would be established on a discriminatory basis.

Mr. Chairman, I urge my colleagues to act expeditiously as possible to support H.R. 6219. By so doing, we move ahead an important increment toward vindicating a national promise so long ago made, so long now overdue.

Mr. BURKE of Massachusetts, Mr. Chairman, I rise to support the extension of the Voting Rights Act of 1965. I would like you to know that one of my first legislative actions in the 94th Congress was to cosponsor H.R. 4002, a bill from which H.R. 6219 grew and upon which it improved. This proposal was designed to extend certain provisions of the Voting Rights Act of 1965 for 10 years. As discouraging as these measurements may be, illiteracy is hardly a disability peculiar to blacks and Spanish-speaking Americans. In absolute numbers, more whites living in America are functionally illiterate than are minority group members.

It is essential to the livelihood of our democratic process that every citizen be afforded the opportunity to vote. This is a fundamental part of our civil rights. Too often, literacy tests have had discriminatory effects as State and county educational possibilities were inferior for members of minorities. A nationwide, permanent ban on these tests would protect the voting rights of citizens where discrimination on the basis of literacy would result in great inequities in our electoral process.

The perpetuation of the ban must be stressed as provisions for tests or devices retard the process of grassroots activism in our country. Therefore, the extension of the Voting Rights Amendments of 1965 must be ongoing so that these States will not be permitted to enforce literacy tests as prerequisites to voting and registration.

The positive effects of the Voting
Rights Act of 1965 are evident and speak for themselves. The progress of minority political representation has become increasingly apparent. However, significant deficiencies in minority registration and, therefore, political participation still exist. We must work to amend the legislation to provide in order to insure the rights of all citizens.

Mr. ANDERSON of California. Mr. Chairman, I rise to support H.R. 6219, which amends and extends the Voting Rights Act of 1965.

Ten years ago, when the original Voting Rights Act was first passed, it was designed to meet the needs of minorities who were being denied the right to vote. Since then, the situation has improved greatly in those areas where the act was designed to effect. Yet the need for the bill is still evident, for new areas have been discovered which need the special protection and benefits which the bill, as originally drafted, does not address.

In the 1974 congressional election, 44.7 percent of Hispanic citizens exercised their right to vote. Among black citizens, who were the major beneficiaries of the original Voting Rights Act, voter participation was only 33.8 percent. In the South, where many of the most publicized instances of voting injustice took place, there was only a 5-percent difference between black and white registration: A marked improvement over 1966, when there was an 11 percentage point difference.

However, there are other minority groups in the United States which are lagging behind in voter registration. According to the Social and Economic Statistics Administration to the U.S. Department of Commerce, only 22.9 percent of the total voting age population of Americans of Spanish descent were registered to vote in 1974.

Some of this alarmingly low rate can be laid to the fact that many Americans of Spanish heritage have been, and still are, the major beneficiaries of the Federal Government for the politically weak and suppressed citizens who were unable to attain justice through State case-by-case litigation. In this section lies the strength of the Voting Rights Act, for it facilitates the enactment and enforcement of the law has enfranchised many black people in our Nation who, through the use of discriminatory practices, were denied equal opportunity to register and vote. However, the task is far from complete. H.R. 6219, sponsored by my distinguished colleague, Mr. Edwards of California, would provide for a sorely needed extension of the act, as well as extending its coverage to language minorities.

The original Voting Rights Act contained a section 5 preclearance provision, which insured protection and assistance by the Federal Government for the politically weak and suppressed citizens who were unable to attain justice through State case-by-case litigation. In this section lies the strength of the Voting Rights Act for it facilitates the enactment and protection of the act. However, section 5 did not become widely used until 1971. Thus it is crucial that this provision be extended, as it is now much protected and is too short a time to alleviate all discriminatory practices. H.R. 6219 does extend and strengthen this section.

I would like to point out another area of concern to all those present who feel as needed as and extended, as it is now much protected and is too short a time to alleviate all discriminatory practices. H.R. 6219 does extend and strengthen this section.

I would like to point out another area of concern to all those present who feel as needed as and extended, as it is now much protected and is too short a time to alleviate all discriminatory practices. H.R. 6219 does extend and strengthen this section.

The outstanding coverage of minorities which the Voting Rights Act has accomplished thus far. Notable areas of progress under the act have been in increased minority registration, voter turnout, and in the increased number of minority elected officials. It is now time to extend this coverage to other disadvantaged groups. H.R. 6219 accomplishes this through its inclusion of "language minorities," specifically American Indian, Asian-Americans, Alaskan Natives, and people of Spanish heritage. This coverage will secure the right of these peoples to assert their political strength through their increased ability to participate in our electoral process, a right all disadvantaged groups should have.

H.R. 6219 includes the provisions essential to the continued success and effectiveness of any voting rights legislation. To reiterate, these provisions are the section 5 preclearance provisions, the 10-year extension of the act's coverage, inclusion of language minorities, the amendment to the jurisdictional base, and the permanent nationwide ban on literacy tests.

In conclusion, the Voting Rights Act may exist in part because of a mistaken impression that the act is a great burden imposed on a particular region of the country solely by representation whose districts are unaffected. I wish to note, however, that my own district is one of those affected by this legislation: It is located in one of the three counties of New York which are covered by sections 4 and 5 of the act. It is not denied but because of our experience under the act that I support H.R. 6219 and oppose the Wiggins substitute amendment.

Most jurisdictions covered by sections 4 and 5 never actually sought an exemption from the act. The attorney general in New York was authorized to seek just such an exemption from New York, Kings, and Bronx Counties in New York City. The courts applied the same standards to us New Yorkers as are applied under H.R. 6219 to the South. After 2 years of litigation and three appeals to the Supreme Court, New York was denied an exemption. The case was lost because of evidence introduced by the New York NAACP which showed that our literacy test, like Virginia's, was adopted for a discriminatory purpose, and that minority voters in New York, like those in Gaston County, N.C., were more likely to be illiterate because they had attended inferior schools.

Section 5 has been applied to a large number of State and local laws in New York. Last year we submitted to the Attorney General under that provision the new senate, assembly, and congressional district lines in the three covered counties. The Attorney General disapproved many of these lines. Using the same standards applied to submissions from Southern States, the Attorney General found that the dilution of the concentrations of minority voters and placed the fragments in districts with white majorities. As a result there were large numbers of nonwhite voters in white districts, but very few white voters in nonwhite districts. The Attorney General's decision required the Governor to call a special session of the State legislature, which adopted new lines more fair to all.

We have not found that compliance with the section 5 preclearance procedures is a serious or significant problem. In fact, knowledge of the requirements by section 5 has had the laudable effect of deterring last minute changes in election laws. I have been advised by civil rights lawyers that in numerous occasions during the past several years they have been able to persuade the city board of elections to refrain from taking potentially discriminatory steps by invoking section 5, which is not intended to offend the dignity of the city or the State.

For the past 2 years New York City has been providing all voting and registra-
The amendment of the Senate No. 107 and concur therein with an amendment, as follows:

The Speaker. The Clerk will report the Senate amendment to the text of the bill.

The Speaker. The Clerk will report the motion offered by the gentleman from Texas (Mr. Mahon). The motion as follows:

Mr. Mahon moves to take from the Speaker's table the bill H.R. 5899 with the remaining amendment in disagreement and move that the House recede from its disagreement to the amendment of the Senate numbered 107 and concur therein with an amended, as follows: In lieu of the matter proposed in said amendment insert the following:

"RAIL TRANSPORTATION IMPROVEMENT AND EMPLOYMENT"

"For payment of financial assistance to assist railroads by providing funds for repairing, rehabilitating, and improving railroad roadbeds and facilities, $700,000,000 of which not to exceed $7,000,000 shall be available for five years after enactment of the legislation." The Speaker. The Clerk reads the title of the bill.

MOTION OFFERED BY MR. MAHON

The motion as follows:

Mr. Mahon, Speaker, when the $5 billion emergency employment appropriations bill passed the House and went to the Senate, the Senate added $700 million for grants to railroads not loans, but grants to railroads. This was the major controversy in conference on the job bills.

We had a rollicking vote in the House on this item, and the House receded from its disagreement to the amendment of the Senate No. 107 and concur therein with an amendment, as follows: In lieu of the matter proposed in said amendment insert the following:

"RAIL TRANSPORTATION IMPROVEMENT AND EMPLOYMENT"

"For payment of financial assistance to assist railroads by providing funds for repairing, rehabilitating, and improving railroad roadbeds and facilities, $700,000,000 of which not to exceed $7,000,000 shall be available for five years after enactment of the legislation." The Speaker. The Clerk reads the Senate amendment, as follows:

Senate Amendment No. 107, page 30, line 15, inserted:

"RAIL TRANSPORTATION IMPROVEMENT AND EMPLOYMENT"

"For payment of financial assistance to assist railroads by providing funds for repairing, rehabilitating, and improving railroad roadbeds and facilities, $700,000,000 of which not to exceed $7,000,000 shall be available for five years after enactment of the legislation." The Speaker. The Clerk will report the motion offered by the gentleman from Texas (Mr. Mahon).

The Speaker. The Clerk reads the motion offered by the gentleman from Texas (Mr. Mahon).

Mr. Mahon moves to take from the Speaker's table the bill H.R. 5899 with the remaining amendment in disagreement and move that the House recede from its disagreement to the amendment of the Senate numbered 107 and concur therein with an amended, as follows: In lieu of the matter proposed in said amendment insert the following:

"RAIL TRANSPORTATION IMPROVEMENT AND EMPLOYMENT"

"For administration expenses and preparation of plans to provide assistance to financially distressed railroads for repairing, rehabilitating, and improving railroad roadbeds and facilities, $5,000,000,000 to remain available until December 31, 1976: Provided, however, that these funds shall be available only upon the enactment of authorizing legislation." The Speaker. Is there objection to the request of the gentleman from California? There was no objection.
tion. It is just for administrative expenses and for planning.

Just let me read the motion. It provides:

For administrative expenses and preparation of plans we are providing assistance to financially distressed railroads for repairing, rehauling, and improving railroad roadbeds and facilities, $4,000,000 to remain available until December 31, 1976: Provided, how-
ever, That these funds shall be available only upon the enactment of authorizing legisla-
tion.

The House vote when this matter was before us on May 22 was 215 against the $700 million and 136 for. The vote today is on whether or not to provide $5 million in administrative and planning expenses and for planning.

Mr. ROONEY. As I assured the gentleman last week, Mr. Chairman, before we adjourned for the recess, I said that this money in the event Congress does pass a program for bailing out the railroads that are in distress, and it will not become available until authorizing legislation is enacted. If authorizing legislation is enacted, the money will become available immediately for administration and for planning.

I yield myself such time as I may consume.

Mr. CEDERBERG. Mr. Speaker, I agree with the gentleman from Texas. As I assured the gentleman from Pennsylvania (Mr. ROONEY) who is working on the authorizing legislation, I would be glad to have that gentleman comment upon my statement in regard to the $700 million, which would be em-
pered appropriate as it relates to authorizing legislation.

Mr. ROONEY. As I assured the gentle-
man last week, Mr. Chairman, before we adjourned for the recess, I said that the rail-
road Administration was that at this time we would pro-
vide money only for administration and for planning so that immediately upon the passage of legislation authorizing appropriations, the funds will be available for the railroads themselves unless and until such a pro-
gram is authorized. Under the amend-
ment pending at this time we would pro-
vide money only for administration and for planning.

Mr. MAHON. I yield myself such time as I may consume.

Mr. MAHON. I yield myself such time as I may consume.

Mr. CEDERBERG, Mr. Speaker, I am sure the gentleman from Michigan (Mr. MAHON) is the gentleman from Texas (Mr. MAHON).

I yield the distinguished ranking minority member of the Appropriations Committee.

Mr. CEDERBERG. Mr. Speaker, I op-
posed the $700 million that was not au-
thorized, as did the Chairman. However, I recognize the urgency of this supple-
mental. As has already been pointed out by the chairman, the gentleman from Texas (Mr. MAHON) we have unemployment checks that are in jeopardy, and veterans pension checks, and conse-
quently we urgently need this supplemental.

In discussions with the chairman and with the other House conferees, we felt this amendment might be the vehicle by which we could move this matter, be-
cause I just do not see how we can delay it any longer.

It is in that vein that I intend to sup-
port the amendment to be offered by the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Speaker, I am sure the gentleman from Michigan (Mr. CER-
derberg) as well as the gentleman from Texas, would like to see this whole mat-
ter postponed until we know what the features of any authorizing legislation may be. But we do need to reach a com-
promise because of the urgent nature of other items in the bill, and since this proposed compromise does not provide any funds for any railroad at this time, and requires authorizations before it can be expended, I think we can accept this as a reasonable compromise in view of all the circumstances.

I think it is important that we have a rolloff on the issue, so that we can de-
emonstrate the position of the House. The House in the two previous votes in-
dicated strongly that it does not want to provide any money for the railroads themselves unless and until such a pro-
gram is authorized. Under the amend-
ment pending at this time we would pro-
vide money only for administration and for planning.

Mr. MAHON. I yield myself such time as I may consume.

Mr. CEDERBERG. Mr. Speaker, I agree with the gentleman from Texas. As I assured the gentle-
man from Pennsylvania (Mr. ROONEY) who is working on the authorizing legis-
lation, I would be glad to have that gentleman comment upon my statement in regard to the $700 million, which would be em-
pered appropriate as it relates to authorizing legislation.

Mr. ROONEY. As I assured the gentle-
man last week, Mr. Chairman, before we adjourned for the recess, I said that the rail-
road Administration was that at this time we would pro-
vide money only for administration and for planning so that immediately upon the passage of legislation authorizing appropriations, the funds will be available for the railroads themselves unless and until such a pro-
gram is authorized. Under the amend-
ment pending at this time we would pro-
vide money only for administration and for planning.

Mr. MAHON. I yield myself such time as I may consume.

Mr. CEDERBERG, Mr. Speaker, I am sure the gentleman from Michigan (Mr. MAHON) is the gentleman from Texas (Mr. MAHON).

I yield the distinguished ranking minority member of the Appropriations Committee.

Mr. CEDERBERG. Mr. Speaker, I op-
posed the $700 million that was not au-
thorized, as did the Chairman. However, I recognize the urgency of this supple-
mental. As has already been pointed out by the chairman, the gentleman from Texas (Mr. MAHON) we have unemployment checks that are in jeopardy, and veterans pension checks, and conse-
quently we urgently need this supplemental.

In discussions with the chairman and with the other House conferees, we felt this amendment might be the vehicle by which we could move this matter, be-
cause I just do not see how we can delay it any longer.

It is in that vein that I intend to sup-
port the amendment to be offered by the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Speaker, I am sure the gentleman from Michigan (Mr. CER-
derberg) as well as the gentleman from Texas, would like to see this whole mat-
ter postponed until we know what the features of any authorizing legislation may be. But we do need to reach a com-
promise because of the urgent nature of other items in the bill, and since this proposed compromise does not provide any funds for any railroad at this time, and requires authorizations before it can be expended, I think we can accept this as a reasonable compromise in view of all the circumstances.

I think it is important that we have a rolloff on the issue, so that we can de-
emonstrate the position of the House. The House in the two previous votes in-
dicated strongly that it does not want to provide any money for the railroads themselves unless and until such a pro-
gram is authorized. Under the amend-
ment pending at this time we would pro-
vide money only for administration and for planning.
can get a compromise and then when the Committee on Interstate and Foreign Commerce, headed by the very able gentleman from Pennsylvania, (Mr. Rooney), adjourned this bill between the hot July-August recess, we might get this to conference with the Senate. Perhaps at that time we can have the $700 million ready to go to put 31,045 people back to work.

What is going to happen here, Mr. Speaker, is that this delay is going to prevent any work to begin in the colder areas of the state during the winter. That is what I am concerned about.

I hope the amendment is defeated, because it is merely an empty provision. It does nothing. It merely provides $5 million for planning after authorization. Let us not kid anyone.

Fellow members, this appropriation will not solve all our rights-of-way problems but it will make a start. In this past year, a derailment outside of Decatur, Ill., resulted in explosions that completely destroyed an elementary school. Luckily, there were no explosions. The incident could have resulted in the destruction of an area encompassing three city blocks. These two incidents are representative of more than 10,000 which occurred last year due to the dilapidated state of our roadbeds. Why do we drag our feet and hide behind the mask of procedural arguments when we can take the initiative to put every unemployed rail worker back on the job and off the welfare rolls as well as a positive step in rehabilitating our rail right-of-way.

Fellow members this arbitrariness and inconsistency flys in the face of responsible legislation. We must not relax procedure arguments on three portions of one bill and utilize them to thwart a fourth provision of the same bill. We now have the opportunity and means to enact timely, prudent and responsible legislation. Let us rise to the occasion.

I urge my colleagues to defeat the motion of the gentleman from Texas (Mr. MAHON).

Thank you, Mr. Speaker.

Mr. Speaker, I have no further requests for the rule.

Mr. MAHON. Mr. Speaker, I would just like to state to my colleagues that these issues respecting the urgency of the matter before the House today was pressed by me and others on the floor on May 22, and I was here, myself, as chairman, trying to secure action on this bill in order to take care of the urgent needs of veterans and others.

I am back here today trying to do the same thing, even though some of the veterans' checks are being delayed.

I think it is clear that what we are doing today is trying to work out a compromise that will be reasonably acceptable.

Further, Mr. Speaker, the gentleman from Massachusetts (Mr. Corman) has suggested that we are abandoning our principles by providing the $5,000,000 without authorization when we objected to providing the $700,000,000 on the grounds that it was not authorized.

Mr. Speaker, I would suggest that there is a world of difference in providing $5,000,000 for administration planning purposes than in providing $700,000,000 for a program that does not even exist.

Even though I would personally have preferred to provide nothing until a program has been authorized, in the spirit of compromise I think it is reasonable to provide $5,000,000 for planning purposes at least as soon as the authorization bill is passed, the essential development of procedures and planning that is necessary can get underway.

The important point is that the House and the other body must develop a program for the railroads before funds are provided.

I do hope the House by a resounding vote will support the position set forth here in order that the other body may be persuaded to accept this compromise which we have undertaken to develop a program.

Mr. MAHON. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered. The Speaker, the gentleman from Texas (Mr. MAHON). The question was taken; and the ayes appeared to have it.

Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order.

The SPEAKER. Evidently a quorum is not present.

The previous question was ordered. The ayes appeared to have it.

Mr. Speaker, I object to the vote on the ground that a quorum is not present.

The Speaker announced that the ayes appeared to have it.

Mr. Speaker, I would suggest that we are abandoning our principles by providing the $5,000,000 without authorization when we objected to providing the $700,000,000 on the grounds that it was not authorized.

Mr. Speaker, I would suggest that there is a world of difference in providing $5,000,000 for administration planning purposes than in providing $700,000,000 for a program that does not even exist.

Even though I would personally have preferred to provide nothing until a program has been authorized, in the spirit of compromise I think it is reasonable to provide $5,000,000 for planning purposes at least as soon as the authorization bill is passed, the essential development of procedures and planning that is necessary can get underway.

The important point is that the House and the other body must develop a program for the railroads before funds are provided.

I do hope the House by a resounding vote will support the position set forth here in order that the other body may be persuaded to accept this compromise which we have undertaken to develop a program.

Mr. MAHON. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered. The Speaker, the gentleman from Texas (Mr. MAHON). The question was taken; and the ayes appeared to have it.

Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order.

The SPEAKER. Evidently a quorum is not present.

The previous question was ordered. The ayes appeared to have it.

Mr. Speaker, I object to the vote on the ground that a quorum is not present.

The Speaker announced that the ayes appeared to have it.

Mr. Speaker, I would suggest that we are abandoning our principles by providing the $5,000,000 without authorization when we objected to providing the $700,000,000 on the grounds that it was not authorized.

Mr. Speaker, I would suggest that there is a world of difference in providing $5,000,000 for administration planning purposes than in providing $700,000,000 for a program that does not even exist.

Even though I would personally have preferred to provide nothing until a program has been authorized, in the spirit of compromise I think it is reasonable to provide $5,000,000 for planning purposes at least as soon as the authorization bill is passed, the essential development of procedures and planning that is necessary can get underway.

The important point is that the House and the other body must develop a program for the railroads before funds are provided.

I do hope the House by a resounding vote will support the position set forth here in order that the other body may be persuaded to accept this compromise which we have undertaken to develop a program.

Mr. MAHON. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered. The Speaker, the gentleman from Texas (Mr. MAHON). The question was taken; and the ayes appeared to have it.

Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order.

The SPEAKER. Evidently a quorum is not present.

The previous question was ordered. The ayes appeared to have it.

Mr. Speaker, I object to the vote on the ground that a quorum is not present.

The Speaker announced that the ayes appeared to have it.
Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendment to the bill, H.R. 8989, upon which we have just voted.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

FINANCIAL CRISIS IN THE POSTAL SERVICE

(Mr. HANLEY asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. HANLEY. Mr. Speaker, when we passed the Postal Reorganization Act of 1970, many proclaimed that a new day had dawned. The Postal Service was going to be free of the worst of business principles and was going to move rapidly toward self-sufficiency.

Top-flight management talent from business was imported to perform this miracle, offered the expectation of career employees who had a wealth of experience in moving the mail. Unfortunately, much of this promise has failed to materialize, and for various reasons we now must face some harsh realities.

To put it bluntly, the Postal Service is now facing a financial crisis of great magnitude. In 1974, the Postal Service incurred a net debt of approximately $450 million and received $1.6 billion in various appropriations. For fiscal year 1975, it is estimated that the debt will exceed $800 million on top of approximately $1.5 billion it will receive in appropriations.

In 1976, the estimates include a $1.6 to $1.8 billion debt on top of at least $1.4 billion in appropriations.

Thus, of $2.25 billion borrowed or authorized to be borrowed, more than half—or $1.5 billion—will be or has been applied to cover operating expenses. The Postal Service cannot continue to do this and expect to remain solvent. And since the projected deficits far exceed the authority of the Postal Service to use borrowed money for operating expenses, we are facing an immediate crisis which in the next few months could lead to unpaid bills, unmet payrolls, and radical cuts in service. In other words, the Postal Service would be skirting bankruptcy if it were a private business.

Why has this happened? What has occurred to make the predictions of vast improvement and self-sufficiency made when the Postal Reorganization Act passed in 1970 seem so hollow a scant 5 years later?

The causes are many and complex.

Management turnover and indecision, particularly at the headquarters level, has taken its toll. One of the goals of the Postal Reorganization Act was to encourage long-term continuity of top management. The postal reform movement cited the turnover in top level management due to political appointments as a major cause of inefficiency and lack of direction in the old Post Office Department. They argued that we must bring in businessmen and give them an opportunity to stay in the job for a sufficient period of time to make felt the impact of new policy directions.

In this respect, the promise held out by the Postal Reorganization Act has failed to materialize. Since 1970, we have had three Postmasters General, three Deputy Postmasters General, and a multitude of Assistant Postmasters General. There have been at least two major reorganizations and an almost constant process of minor reorganizations and policy changes on a national, regional, and district level.

This state of flux has taken its toll in poor and costly decision, a lack of clear policy direction, the loss of experienced employees who were replaced by men and women from the business world who, though competent in their own fields, have often failed to grasp the true public service nature of the Postal Service, and declining morale among employees at all levels.

To be fair, the situation appears to be stabilizing now, and the Postal Service does enjoy the talents of many fine exectuives. I am very hopeful that Ben Bailar's Postmaster Generalship will be a long and fruitful one. However, it would also be a mistake to place the Postal Service'sills at the feet of management exclusively, but management turnover and indecision has taken its toll.

The second cause has been the impact of inflation on the Postal Service. Inflation has hit us all, of course, but it has hit the Postal Service even more severely than most Federal agencies. For example, the Postal Service is probably the biggest user of transportation in the United States. Skyrocketing fuel costs have hit the Postal Service severely—some $3 million a year is...
added to operating expenses for every penny increase in fuel costs. And, of course, the Postal Service must heat and air-condition a vast network of facilities throughout the Nation, a very expensive demand on the part of labor for adequate salary adjustments are an important factor in the Postal Service's financial picture. The Postal Service is supported like other private businesses in every manner, and, in fact, we have provided Postal Service management with many flexibilities which are patterned after business experiences. But this is not to say that the Postal Service can act like a business in every way.

The Postal Service operates a vast communications network essential to America's commercial, industrial, and social life. The Postal Service is limited in the extent to which it can cut service before such cuts have a deleterious effect on our economy. And, certain levels of service are demanded by the American people—levels of service which may not be economical for the Postal Service, but which are considered essential. Six-day delivery, post offices in small towns and rural communities, concierge-type service convenient to the customer are examples of services which are expensive but important for good mail service.

In times of inflation, the Postal Service cannot cut services, close facilities, and engage in layoffs to the extent that private industry can, if for no other reason than such actions would not be consistent with efforts by other government agencies to spur economic recovery.

Thus, to summarize, the Postal Service is in a financial bind because of management turnover and inexperience, the impact of inflation, the inability of the Postal Rate Commission to act quickly and effectively in postal rate cases, and the public service nature of the Postal Service. No single factor could alone have caused the problems with which we are faced. The real problem arises because the full impact of these factors have coalesced to place inordinate financial pressure on the Postal Service at this time.

What can be done to alleviate this situation? In the long run, the approaches taken in 1944 provide a solid foundation for reform.

H.R. 2445 authorizes increased appropriations for public service costs of up to 20 percent of operating expenses. This would replace the current authorization of 10 percent of 1971 appropriations. The authorization would be renewed biennially, whereas the current authorization is a permanent one. For comparison, if H.R. 2445 were in effect today, an authorization of approximately $2.4 billion would apply, as opposed to the current $920 million, or a net increase of about 11 percent.

Another feature of this provision is the elimination of the break-even concept. Elsewhere, I have discussed my attitude toward this issue and will not repeat it here. It is suffice to say that the unique public service performed by the Postal Service for all citizens requires, to my mind, some funding from the General Treasury. I believe that the Postmaster General should be given the authority to act more expeditiously and at the same time enable individuals and organizations to participate in rate cases for substantially less cost. Some consideration will also be given to requiring the Commission to act with a specified period of time.

These provisions, or variations of them, which may come out of subcommittee and committee deliberations, will not, however, solve the immediate financial problems of the Postal Service. We are doing nothing, which would at a minimum require some immediate action to cut these costs. Two courses of action must be considered: either an emergency appropriation or an authorization for the Postal Service to cut costs with a specified period of time.

Neither of these are particularly palatable or popular solutions, and I hope that we will not have to take such extreme measures. But I would be less than fair if I did not make some attempt to inform the Members and the public that we may have to make some hard decisions in the near future.

THE 59TH ANNIVERSARY OF THE ITALIAN REPUBLIC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANUNZIO) is recognized for 5 minutes.

Mr. ANUNZIO. Mr. Speaker, today is the 59th anniversary of the founding of the Italian Republic. On June 2, 1946, the Italian people voted away the remains of a bankrupt fascist regime, established a republic, and elected to the constituent assembly. The war-weary Italians yearned for a new beginning, and on that day they expressed their faith in parliamentary democracy as the form of government best suited to lead Italy on the road to recovery and peace, while guaranteeing individual freedoms and national integrity.

June 2, 1946, was indeed a new beginning. The remarkable achievements of the Italian Republic in the past 29 years have amply shown that the Italians had made the right choice.

This is a somber day. The fledgling Republic was beset with many problems—political, social, and economic. In the economic realm, everything needed to be done. In 1946 Italy suffered from the ravages of the war added to 20 years of Fascist mismanagement and incompetence. Hunger and disease were rampant, life expectancy was low. One-quarter of Italy's railroad tracks, one-third of its bridges, one-half of its powerplants, and two-thirds of its roads were destroyed as a result of the
June 2, 1975

CONGRESSIONAL RECORD—HOUSE

16297

intensive fighting which had taken place on Italian soil.

Great strides were made by the Italian people and their Government to overcome these problems and begin anew. Indeed, Italy became a powerful and influential economic and political power in the postwar era. The Italian people, therefore, with pride and admiration that I offer my congratulations to the Italian people and to their Ambassador to the United States, His Excellency Ennio Fantini.

On this glad occasion, I pay tribute to the Italian people and their outstanding leaders for the achievements made during the 29-year existence of the Italian Republic, and I extend warmest best wishes to the people of that great Republic as well as to our many friends of Italian decent in my own 11th District in Illinois and throughout the United States, and all over the world who are joining in the celebration of this anniversary.

SPECULATION—A MAJOR CAUSE OF THE RECESSION

The SPEAKER pro tempore (Mr. McFALL). Under a previous order of the House, the Chair (Mr. PATMAN) is recognized for 10 minutes.

Mr. PATMAN. Mr. Speaker, it is not often that Arthur Burns, Chairman of the Federal Reserve Board, and I are in agreement in assessing the weaknesses of our economy. In his address on May 6 to the Society of American Business Writers, Chairman Burns candidly conceded that since the mid-1960's the American economy suffered from speculative excesses. He singled out four speculative waves that sapped our national vitality and contributed importantly to the deep recession that we are now experiencing.

They include: First, the heavy volume of corporate mergers and acquisitions that obscured the traditional business objective of seeking larger profits through better technology, marketing and management; second, stock market speculation wherein performance-minded institutional investors poured speculative real estate investments (REITs) into the speculative waves that sapped our national vitality and contributed importantly to the deep recession that we are now experiencing.

They include: First, the heavy volume of corporate mergers and acquisitions that obscured the traditional business objective of seeking larger profits through better technology, marketing and management; second, stock market speculation wherein performance-minded institutional investors poured speculative real estate investments (REITs) into the speculative waves that sapped our national vitality and contributed importantly to the deep recession that we are now experiencing.

Third, real estate speculation in land, condominiums, and other structures, many of which remain vacant because they are too expensive to rent or to buy; and fourth, the massive accumulation of inventories by businesses that gave rise to reductions in business and, as a result, to defaults and escalating interest rates.

Where Chairman Burns and I part company is in the explanation of these speculative waves. He largely blames the speculative excesses on a lack of discipline in governmental finances. But the real cause of the speculative excesses was the ready availability of credit from commercial banks and other financial institutions which financed the speculative activity.

Such speculation financing is detailed in a study on "credit flows and interest costs" that was prepared by the Subcommittee on Economic Progress of the Joint Economic Committee. This study, which was prepared by Arnold H. Diamond, economic consultant to the committee on loan from the Department of Housing and Urban Development traces the large credit outlays by commercial banks and other lenders to business and industry. In land, the stock market, foreign currencies, and security stocks, and inventory stockpiling by businesses. It also measures the diversion of funds from the U.S. credit markets to foreign lenders and the spectacular growth of direct lease financing by commercial banks.

These speculative loans were made in a search for the benefit of short-term, particularly short-term, businesses that gave rise to defaults and escalating interest rates.

While such public hand wringing cleanses one's soul, it would have been much better if the Federal Reserve Board, together with the other bank supervisory agencies, had acted to stop, or even slow down, the loan extensions for speculative activities. Had they acted in time, the inflation last year would not have been less virulent, the inventory stockpiling would have been reduced, and the ensuing recession would have been much milder.

STATEMENT BY CONGRESSMAN BOB SIKES TO THE NORTHWEST FLORIDA PRESS CLUB, MAY 30, 1975, RELATING TO NEW YORK TIMES CHARGES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. Sikes) is recognized for 10 minutes.

Mr. Sikes. Mr. Speaker, on May 22 the New York Times published a lengthy article implying a conflict of interest because I had sponsored legislation enacted in 1966 that was sponsored at the request of a local Florida governing agency for its benefit. The Times implied that the legislation also benefited land on which a lease was held by companies to which I was a stockholder. The company was the CBS Development Corp. The legislation was not intended to apply to the CBS lease and, in my opinion, did not. The Times charge is false, as I indicated on May 22 when I took the floor on a point of personal privilege to refute the Times statement.
I now offer for the benefit of my colleagues details on the operations of the CBS Development Corp. and the reasons for my statement that the Times allegations are not supported by the evidence cited in that story. It is well to recall, also, that the Times charge is based on legislation enacted 13 years ago. A number of newspapers subsequently have sought to make capital of the same story, but all have closed or scheduled to close. Faced with severe economic problems, the area lead­

enacted 13 years ago. A number of news­

tions are not only baseless, but deliber­

tively false.

no one who examined the property saw the land and lot lines established on the 3-mile strip contained 600 acres. There had been no survey to establish accurately the acreage. During the transfer process the appraiser established that the tract contained about 875 acres. No one attempted to estimate the acreage of the two small islands east of the pass and several miles away. Please remember that neither the U.S. Corps of Engineers nor the Island Authority, which was later established, considered the 875 acres to include the two small islands which are now termed Holiday Isle. This bill was passed in 1948. In 1953 the state legislature created an Island Authority for the supervision of the property. Streets were laid out and lots were transferred on the 3-mile tract. There was some speculative activ­

ity in order to insure that the property would be used for recreational purposes. Recreational purposes had later been construed to mean virtually any activity associated with government control of the beaches. However, the existence of the reverter clause was making it very difficult for the authority to borrow the money needed for development. CBS was not alone in this respect. Many of our developments were small, a little at a time, funding requirements were not large, and the banks were willing to ac­
cept the risk. The Island Authority was not committed in any way for any improvements on Holiday Isle. Holiday Isle had to pay its own way.

be developed which looked attractive as an investment. In 1955 the Island Authority had leased the low-lying areas east of the pass for $100. This is the property known as Holiday Isle. Obviously they did not place much value on it. They had no plan or obliga­tion then or later to develop that area with streets and utilities similar to those required for the 3-mile, 875-acre tract. In fact, I thought they should have kept the area for park purposes, but they let it go.

As a condition of the lease, the au­

tions in the 30-000 and 500-000 range. We four were the stockholders of the estate which once had owned all of it. The western half was still being used by Eglin, but Eglin officials agreed that this area was a low-lying afterthought, a low-lying area east of the Panama City ship­

The Panama City ship­

in 1961 and action completed in 1962. It is this bill on which the New­

York Times attempts to make a case that the bill was for my own benefit. The bill was introduced 14 years ago and passed 13 years ago. It is a little late for the Times to claim that I was a politician.

Now let me call your attention to the official report on the original bill convey­

ing the property to Okaloosa County. It is not a very big drop in the wartime economy. The Federal Government owned all of Fort Walton Beach. There was some speculator activ­

that I was affected by the legislation and did not have any responsibility of any kind to assist in the development of Holiday Isle. CBS was the red-headed stepchild that had to make improvements on the 875-acre, 3-mile tract—improvements which my leasehold was not eligible to receive. The effect, if any, of the reverter clause on the CBS property is now a moot ques­tion. Development on the CBS lease has largely been completed, but only after years had elapsed. The property has been an afterthought or a low priority item to the lessees. The Government has no interest in reacquiring it. The property has no defense value and to reacquire it would mean reimbursing the investors. There is no doubt that the reverter clause helped the Island Authority with its development plans on the 3-mile, 875-acre tract. Improving economic conditions probably helped considerably more. Long after significant progress was being made in the development of the 3-mile tract, CBS was still having trouble in persuading the Island Authority to make improvements on Holiday Isle. Most of it was too low for development. Sand had to be pumped in or bulldozed at the expense of the lessees. Development was too costly to be under­
taken except a little at a time. Many investors were afraid of the low-lying aspect and the price was considerably lower than those prevailing on the larger tract. Actually, it was a sales drive by John W. Brooks, and the prices were considerably lower than those prevailing on the larger tract. Actually, it was a sales drive by John W. Brooks. The greater part of the land which was "made" is completely under the control of the engineers. The greater part of the land which was "made" is completely under the control of the engineers. Of course, it is extremely difficult to prove a newspaper lied with malice, even when it is obvious they lied.

The New York Times charges of conflict of interest are false. They have always before been no receipts to White Sands. The press seldom seems to care about these things. They jealously speak of freedom of the press, but what we have is a censorship imposed by the liberal press in America. There is virtually no way for a conservative to get a favorable press. I question that the dictatorships practice a censorship that is any tighter than the one we have in the press in America. Yes, such a censorship exists in this country. The press seldom seems to care about these things. They jealously speak of freedom of the press, but what we have is a censorship imposed by the liberal press in America. There is virtually no way for a conservative to get a favorable press. I question that the dictatorships practice a censorship that is any tighter than the one we have in the press in America. There is virtually no way for a conservative to get a favorable press. I question that the dictatorships practice a censorship that is any tighter than the one we have in the press in America.

That is one of the breaks of the investment game. It has always been difficult to keep East Pass open. The jetties were constructed to help accomplish this. The jetties stopped the westward drift of beach materials from tide-adjoining areas which people are familiar along the northern gulf coast. This resulted in accretion at the point nearest the jetty. Ordinarily accretion is considered to belong to the upland owner. He loses from erosion; gains from accretion. CBS made no attempt to develop the property in question and did not offer it for sale. The press seems reluctant to clarify the fact that there are no cleaning and or fill problems has no relation whatever to CBS. The press says the effect of the soil pumping was to increase the area of the property which has been almost twice the size for 13 years. Possibly something is wrong about accretion. If they are implying pumping or accretion doubled the size of CBS holdings, or even made a major addition to my holdings, that is a false statement.

The press has carried a statement indicating major manipulation by CBS through secondary corporations. There was one instance, only one, when there was a CBS maneuver. My interest in Holiday Isle, and CBS set up a subsidiary corporation which built five or six houses. This was in an effort to get some action started on the island. There had been no development. That in general is the story of CBS. This is the information which I gave to a meeting of the Northwest Florida Press Club in my district on May 30. The facts have not been available to the New York Times by my attorneys well in advance of publication of their charges. Facts, of course, are of little concern to a publication like the New York Times. Their power record is clearly known. They championed Fidel Castro as the Robin Hood of the Caribbean after he was flying commissary against the United States, their welfare record is clearly known. They championed Fidel Castro as the Robin Hood of the Caribbean after he was flying commissary against the United States, their welfare record is clearly known. They championed Fidel Castro as the Robin Hood of the Caribbean after he was flying commissary against the United States, their welfare record is clearly known.

The sudden bloom of Holiday Isle and the Ad valorem tax came later. But I can tell you there have been no receipts to White Sands in the 3-year interval since White Sands acquired the property.

The courts have not completed action on it. The U.S. Corps of Engineers asked CBS for a spillway clause bill and only after the Corps of Engineers asked CBS for a spillway clause bill and only after the Corps of Engineers asked CBS for a spillway clause bill and only after the Corps of Engineers asked CBS for a spillway clause bill did the New York Times seem to care about accretion. It has always been difficult to keep East Pass open. The jetties were constructed to help accomplish this. The jetties stopped the westward drift of beach materials from tide-adjoining areas which people are familiar along the northern gulf coast. This resulted in accretion at the point nearest the jetty. Ordinarily accretion is considered to belong to the upland owner. He loses from erosion; gains from accretion. CBS made no attempt to develop the property in question and did not offer it for sale. The press seems reluctant to clarify the fact that there are no cleaning and or fill problems has no relation whatever to CBS. The press says the effect of the soil pumping was to increase the area of the property which has been almost twice the size for 13 years. Possibly something is wrong about accretion. If they are implying pumping or accretion doubled the size of CBS holdings, or even made a major addition to my holdings, that is a false statement. The press has carried a statement indicating major manipulation by CBS through secondary corporations. There was one instance, only one, when there was a CBS maneuver. My interest in Holiday Isle, and CBS set up a subsidiary corporation which built five or six houses. This was in an effort to get some action started on the island. There had been no development. That in general is the story of CBS. This is the information which I gave to a meeting of the Northwest Florida Press Club in my district on May 30. The facts have not been available to the New York Times by my attorneys well in advance of publication of their charges. Facts, of course, are of little concern to a publication like the New York Times. Their power record is clearly known. They championed Fidel Castro as the Robin Hood of the Caribbean after he was flying commissary against the United States, their welfare record is clearly known. They championed Fidel Castro as the Robin Hood of the Caribbean after he was flying commissary against the United States, their welfare record is clearly known. They championed Fidel Castro as the Robin Hood of the Caribbean after he was flying commissary against the United States, their welfare record is clearly known. They championed Fidel Castro as the Robin Hood of the Caribbean after he was flying commissary against the United States, their welfare record is clearly known.
man from Alaska (Mr. Young) is recognized for 5 minutes.

Mr. YOUNG of Alaska. Mr. Speaker, today I am introducing a companion bill to S. 1366 which was introduced on April 7, 1975, of which I am the lead sponsor. This bill would convey title to the city of Haines, Alaska, in order to give the community greater flexibility in their development. The land was obtained originally from the Department of the Interior. The deed had a restrictive clause which required that this property be used as a school or for other public purposes.

Initially, the building on the site was used for a school and later was converted into a health center. When the health center became obsolete the building was used as a teen center; still later the deteriorating building was condemned by the fire department. The building is in a residential area. It is no longer adequate for public use. For these reasons the city would like to sell the property as well as the building. Because of the restrictive clause in the deed this is not presently possible.

The community of Haines could derive a much needed benefit from the sale of the land and the buildings than is possible through any use of the building at present. The building is capable of use by other groups and there is, therefore, a greater opportunity for the city to use the proceeds from the sale for the benefit of the community. The receipts will be used to construct a building or purchase land for public purposes in the city. The new facility is to be restricted to public purpose uses in perpetuity.

I request that the city of Haines be given this opportunity to make the best use of the building and the land. I hope that this bill will be referred to the proper committee and acted upon favorably.

H.R. 7611
A bill to authorize the Secretary of the Interior to convey to the city of Haines, Alaska, interests of the United States in certain lands and improvements thereon:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the Secretary of the Interior is authorized to transfer by quitclaim deed or other appropriate means to the city of Haines, Alaska, all right, title, and interest remaining in and to those lands and improvements conveyed to the City of Haines, the City of Haines:

1. the city of Haines will sell such land and improvements referred to in the first section at not less than fair market value; and
2. the proceeds from the sale will be used to acquire property or to construct a building to be used for public purposes; and
3. any amount by which the proceeds from the sale of such lands and improvements exceed the acquisition costs of property or construction costs under clause (2) shall be paid to the United States.

Second. If the requirements of section 2 are satisfied, the Secretary of the Interior is authorized to enter into an agreement or agreements with the City of Haines, Alaska, whereby, in consideration of a quitclaim deed to the City of Haines of all right, title, and interest remaining in the United States in and to those lands and improvements conveyed to the City of Haines, the City of Haines agreesto:

1. agrees that title to any property acquired or building constructed with the proceeds of the sale of such property and improvements referred to in the first section of this Act will vest in the United States if such property or building acquired or constructed with the proceeds of the sale has never ceased to be used for a public purpose; and
2. agrees to execute, within ninety days after acquiring such lands, a deed to this effect and deliver said deed to the Secretary of the Interior.

TO COMMEMORATE THE IDEALS CONTAINED IN THE POLISH MAY 3 CONSTITUTION OF 1791.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Rostenkowski) is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, on the third of May of this year, a great celebration was held in Chicago to commemorate the freedom and ideals contained in the May 3 Polish Constitution of 1791.

Thousands of people marched in a colorful parade down State Street as close to a quarter of a million people lined the streets to participate.

My good friend and colleague, Senator Birch Bayh, delivered the principal address at civic ceremonies at the Civic Center Plaza following the parade. It was a marvelous address which I would like to share with all of my colleagues for it touches on the very soul of this Nation. I include Senator Bayh's address in the official record today.

ADDRESS BY SENATOR BIRCH BAYH

It is a distinct pleasure and a great privilege to participate in this third of May Polish Constitution Day Celebration. I know the proud heritage of the Polish people. That heritage is evidenced in the spirit of my own constituents of Polish descent who contribute so much to the community in which they live and which I represent in the Senate.

The entire history of Poland and particularly the history of the May 3 Constitution of 1791 stand as enduring tributes to the unwavering dedication of the Polish people to the principles of freedom, justice, equality, social progress and individual liberty. It is an unfortunate fact of history that although the Polish people have for generations cherished freedom, tyrannical neighbors and leaders have made Polish liberty more a dream than a reality.

It is the great tragedy of Poland that her citizens today are not free to practice the principles embodied in the May 3rd Constitution of 1791. The spirit of the Polish people that the spirit of Freedom has never died—neither in Poland nor in the Polish American community. Polish Americans have always responded with honor. When our founding fathers were engaged in a life and death struggle for independence and freedom, they were largely responsible for improving the effectiveness and fighting qualities of American troops who they trained and helped to lead.

Throughout our history this nation has been enriched by hardy, freedom loving Polish immigrants who came here seeking refuge from tyranny. Bringing with them their traditional ideals and love of liberty, they have added strength and durability to our American character. Their skills and hard work helped to build this country and make it the richest and most powerful nation in the world. They have greatly enhanced our intellectual and artistic life. And above all, this heritage, this continuing reaffirmation of the nation's freedom and have courageously defended it on battlefields throughout the world.

As we in America approach our 200th year as a free and independent nation, it is appropriate that we remember that the people of Poland share with us the same hopes and dreams. Let us never forget that the philosophy of government expressed in our own Declaration of Independence and Constitution is also expressed in the Polish May 3rd Constitution.

And let us never forget that despite a history of oppression, the spirit of freedom in Poland lives on in the hearts of her people.

When I was in Poland some years ago I had the privilege of talking with Bishop Cardinal Wyszynski. He spoke eloquently of the centuries long struggle of the Polish people to achieve and maintain their freedom and independence. He spoke of the courage and the faith that have sustained them through the years, through the invasions and the partitions. And Cardinal Wyszynski told me that for the oppressed people of Poland, Poland was an inspiration of liberty—of hope for the day when Polish citizens would again know liberty.

As we celebrate today the Polish May Third Constitution and as we approach our own bicentennial as a free nation, I am deeply concerned that many Americans have lost faith in our country, our institutions, our leaders and often in themselves.

To be sure, our generation is confronted with difficult and complex problems. But other generations have been confronted with adversity and each generation has faced it with courage. We must be sure that hope will be solved within the framework of our free institutions. And each generation has succeeded.

We cannot ignore today's problems. They do exist. But with all of our problems, let us remember the fact that America is still the most powerful country in the world. This is still a nation with a proud heritage in freedom and individual liberty, the most efficient system of agriculture, the greatest industrial potential and, most important, the strongest free institutions in the world.

We must get Vietnam and Watergate be-
hinder us once and for all. We must turn from the past and look to the future. We cannot tolerate that kind of pessimistic, backward looking attitude which has hobbled our foreign policy that puts more than 8.5 million Americans out of work.

With our people and the unfinished business of our communities, there is no reason why every American who wants to work should not have a job. I am tired of listening to those so-called leaders who continuously tell us what we cannot do. We can do what tells us what we can do and the will to do it.

To be sure, our space-age problems are complex, but I believe a nation which mar- shalled courage and the will to go to the moon can marshal the know-how and the will to find new sources of energy to heat our homes and fuel our industry here on earth. The technological excellence that can produce a plane that can fly three times the speed of sound can certainly produce an automobile that gets 30 miles to the gallon without polluting our atmosphere.

With positive leadership, with hope in the future and faith in the potential of this great land that we love, we can solve our problems and build a better nation and a better world.

As we confront the task of building an America of spirited minds, healthy bodies, clean air, strong foundations, a secure future and a heartened air; an America with jobs for every man and woman who wants to work; an America where every city and town has a decent home and where the elderly have lives of dignity and use- fulness; we must understand that the true quality of a better life must be built on the solid foundation of individual liberty and justice.

One of the most significant differences between our democracy and totalitarian regimes is that we encourage ethnic and cultural diversity in this country and gain strength from it while the Fascists and the Commu- nists feel threatened by diversity and ruthlessly repress it.

Here the noble purposes which inspired our forefathers and the high ideals which they cherished endure today in the hearts of Americans of all ethnic backgrounds. We believe in an America in which each ethnic group has the freedom to develop its own unique qualities and strengths, where the language and the customs of each is respected by the others and where all of us can work together to achieve the progress and justice for ourselves and all mankind.

There are some well intentioned individ- uals who declare that the practices of many nations, these traditions are not important in America today. Nothing could be farther from the truth.

As we gather here to commemorate the freedom and ideals contained in the May Third Polish Constitution of 1939, which recognizes that all peoples are imbued with certain, inalienable rights and we must re- dedicate ourselves in this generation in America to the principles of liberty and freedom contained in the Bill of Rights. We must remain eternally vigilant to ensure these rights for ourselves so this country may continue to serve as the symbol of hope for oppressed peoples everywhere.

The ultimate test of our belief in liberty and freedom contained in the Bill of Rights and the Constitution is protection of the rights of those with whom we disagree. It is easy to defend the rights of those with whom we agree. It is much harder, but perhaps more important to defend the rights of those with whom we disagree.

Each of us should remember the comment of Pastor Niemoller in Germany a quarter of a century ago.

"First came the Jews. And I was not a Jew. So I did not object."

"Then they came after the Catholics, and I was not a Catholic. So I did not object."

"Then they came after the Trade Unions, I was not a Trade Unionist. So I did not object."

"Then they came after me. And there was no one left but me. I intend to object. And I am sure that those who are freedom loving Polish Amer- icans are going to object.

DEATH CLAIMS EISAKU SATO, AD- VOCATE OF UNITED STATES-JA­ PAN FRIENDSHIP, NOBEL PRIZE PEACEMAKER

The SPEAKER pro tempore, Under a previous order of the House, the gentle- man from Hawaii (Mr. Matsu­naga), is recognized for 10 minutes.

Mr. MATSU­NAGA. Mr. Speaker, Japan's Prime Minister Eisaku Sato, leading advocate of United States-Japan friendship and Nobel Peace Prize winner, passed away early this morning after a 71-weeks duration. He was 74 years of age. I know that my colleagues will want to join me in extending heartfelt condolences to Mr. Sato's family and to the Japanese people and his compatriots that his countrymen can take great pride in the fact that Mr. Sato lived a long and hon­orable life, dedicated to the service of his country and to the cause of world peace.

Mr. Sato's 8 years of service as Japan's Prime Minister spanned a period of great change in the Pacific area, for Japan and also for the United States. It was during the 1960's that Japan became one of the world's major industrial powers and began to assume a truly equal role in the affairs of Asia and the Pacific. In 1964, when Mr. Sato first assumed office, the United States had not yet begun its massive, ill-fated military buildup in Southeast Asia, and the People's Republic of China was still unrecognized by most Western governments. When Mr. Sato retired at the age of 71 in 1972, still undefeated after serving four 2-year terms as Prime Minister, both the United States and Japan had opened discussions, which led to the signing of the Sino-Japanese Treaty of Peace and Friendship. The United States was attempting to end its military involvement in Southeast Asia.

Mr. Sato, a member of Japan's Liberal Democratic Party, was a staunch proponent of American-Japanese friendship. Perhaps his proudest achievement in this area was the successful negotiation of the Treaty of Peace and Friendship, which returned Okinawa to Japan, itself, and once and for all to Japan. The Treaty of Reversion, which returned Okinawa to Japan was due in no small measure to his own personal efforts. He was also a strong supporter of many cultural and political exchange programs, such as the Japan-United States Intergovernmental Conference. His contribution to international understanding and world peace was given highest recognition when he was declared a winner of the Nobel Peace Prize in 1974.

With the death of former Prime Min­ister Sato, the United States has indeed lost a great and unserving friend. The foundations of Japan-United States friendship which he helped to construct during his tenure in office will stand as a living memorial to Eisaku Sato.

As one who enjoyed his personal friendship for well over a decade I express my deepest sympathy and heartfelt condolences, and pray that the Good Lord's comfort will be theirs, in their bereave­ment.

REFORM OF OUR NATION'S FINANCIAL STRUCTURE

The SPEAKER pro tempore, Under a previous order of the House, the gentle­man from Rhode Island (Mr. St Ger­main) is recognized for 15 minutes.

Mr. ST GERMAIN. Mr. Speaker, I enter into the Congressional Record a speech by Chairman Hawley R. Rurx of the House Committee on Banking, Currency and Housing, on reform of our Nation's financial institutions. The speech was delivered at Louisiana State University last week, and has been prompted by a concern of mine, and is of paramount concern to my colleagues.

It has been 40 years since any signifi­cant change in our financial structure has been made, and even now this area is beset with problems of inflation and recession. The speech is a broad outline of the problems with our financial institutions and the issues that will be confronted in the future.

In the course of the nation's history, pe­riods of financial stress have led to mon­mental reforms that changed the face of banking. The strains of the early 1900's inspired creation of a central bank in 1913. The collapse of the 1930's brought about the Glass-Steagall Act separating investment banks form commercial banks and setting up the Federal Deposit Insurance Corporation to protect small depositors.

It has been some 40 years since Congress has taken a major review of the na­tion's financial structure. And while the times are not comparable to the panic of 1907 or the Great Depression, the problems of inflation and recession have shown up in the system that cannot be ignored.

Not that our financial house is about to collapse. It isn't. Americans, unlike citizens of some other countries, have no need to feel they must keep a little gold buried in the backyard, or a bank account tucked safely behind the Swiss Alps.

But strains have been building up over the years. The magnitude of the Great Depression, the depression of the 1980's, the inflationary pressures, the largest bank failure in American history, the Franklin National, cannot be pushed aside as an isolated phenomenon.

Fortunately, after a decade of 'go-go banking,' a chastened industry is getting back on more solid ground. Relief from the immediate pressures, however, should not be taken as an excuse to forget the problems. The time to shingle the roof is when it is not raining. As long as Congress is concerned, that time is now.

Before we call in the carpenters, however, there is no reason to believe that Congress should be talking to us about our financial system. They go
well beyond the primary concern of seeing that the system is sound, and that we avoid any depression of bank failures."

**FOCUS ON MONETARY POLICY**

We must ask whether decisions on monetary policy, while trying to contain inflation, take adequate account of the nation's need for job growth. This Congress has already asserted its fundamental interest in this area by directing the Federal Reserve Board to make both the flow of the money supply, and to conduct policy in such a way as to bring long-term interest rates down. Changes in national policies cannot function effectively if the raw material of their industry—the money supply—is subject to sudden swings, pullback and down by decisions made in secret and far removed from the public policy arena.

The recent appearance by the Federal Reserve Chairman before a Congressional committee to disclose the Board's goal of a 5 to 7% percent growth in the money supply for the year ahead is an historic event. It helps open a public dialogue on the whole forbidden subject of monetary policy. The nation will be better for it. I was pleased to note Chairman Burns' own conclusion that the development of a new monetary theory is necessary. The Federal Open Market Committee should not make its decisions known immediately after keeping them in secret. It is clear that Federal Reserve Policy should not be confirmed by the Committee, but these are important decisions... the Federal Reserve System leaves too many loopholes. Yet monolithic agencies may be subject to monolithic mistakes. Our government is too large for what we have thought of in whatever reforms we make in bank regulation.

**COMPREHENSIVE REVIEW UNDERWAY**

All these problems of the nation's financial institutions interlock in a tangle of legitimate interests and conflicting public policies. We cannot deal with just one set of problems in isolation.

The House Banking Committee is now undertaking a comprehensive review of the whole area. It is at the basis these questions through its Financial Institutions Subcommittee, headed by the hard-working gentleman from South Dakota, Mr. ST GERMAIN of Rhode Island. All members of the full committee will participate. We do not intend to repeat the work that has been done in the past. The Hunt Commission, the 1961 Commission on Money and Credit, the Heller Report of 1963. We want to think of us, without another research project.

What is needed at this point is a Congressional attitude, a clear statement of what the public needs from its financial institutions. Congress must define what the basic issues are, where the public interest lies, and what should hold financial system for a nation approaching the 21st century. The study we are undertaking is not limited to the problems of the financial institutions themselves. The name of our study is Financial Institutions and the Nation's Economy—FINE. So far we have spent a dozen hours thinking up the FINE acronym, and about twenty minutes on the substance. We hope to reverse these priorities shortly.

In drawing up legislation, we in Congress will need all the advice and cooperation we can get from the banking industry as well as from other segments of society. There is no conflict in our goals. We all want a sound, stable system, diverse and flexible enough to accommodate the needs of a free market economy, stable, with a system, diverse and flexible enough to accommodate the needs of a free market economy, and very definitely in the best interest of the economic growth. This whole area needs a probing review. Potentially enhancing concentration is another big issue. Banking can be done over the power of its bank subsidiary, engages in businesses that are not strictly banking. Is there competition among these institutions? Is this competition adequate? Is it always fair competition when a bank subsidiary engages in insurance, computer processing and courier services.

**GROWTH OF INTERNATIONAL BANKING**

The whirlwind growth of international banking is another great set of problems. Money is now global. It moves across national borders like wind and water, little regulated, little controlled. Foreign banks have been able to do this with ease, particularly those in the United States. The Federal Reserve Board, for instance, has no power to regulate the investments of foreign banks. We have a weak, super-sensitive bank regulation. The weaknesses have been exposed in recent years. The current situation is that more than 1,000 foreign banks have offices in the United States. The loopholes are obvious. The system leaves too many loopholes. Yet monolithic agencies may be subject to monolithic mistakes. Our government is too large for what we have thought of in whatever reforms we make in bank regulation.
June 2, 1975

CONGRESSIONAL RECORD—HOUSE

16303

To discuss the need for home health care and the public support this proposal is receiving, it is my intention to place statements by myself and others commenting on the legislation in the Record several times a week. Today I am submitting three statements. The first is the text of an address I delivered before National Association of Home Health Agencies Legislative Workshop on May 14, 1975. The second and third items are the fact sheet and the policy statement of the National Association of Home Health Agencies.

This is the 17th statement in the series:

ADDRESS TO THE NATIONAL ASSOCIATION OF HOME HEALTH AGENCIES’ LEGISLATIVE WORKSHOP

(By Representative Edward I. Koch)

I know that you—as representatives of the Nation’s major home health agencies—are aware of the fact that caring for our elderly and disabled in obtaining adequate health care. But you are a select group.

The elderly do so desperately need in our concern and help, have long been ignored by our society. Although millions of dollars are paid out each year to maintain them in nursing homes, they are ignored once they are there. We, as a society, ignore the abuses that exist in some nursing homes as a result of unscrupulous operators who overcharge the elderly and their families, sell their nursing homes at high prices to hospices and then charge the government through medicaid the higher costs. We ignore such abuses until they are dramatically brought to light by the investigations. But equally we ignore the basic question of whether particular patients belong in nursing homes at all. The fact of one hundred visits under medicare for a patient in nursing homes means that the patients are not in need of the care which can set their own. Our bill pre-empts both the artificial federal and state limits and allows any needed visits up to the cost of that which would have been reimbursed if the patient were institutionalized.

The bill permits additional services to the home health patient such as physical therapy, nutritional guidance, family and personal counseling, as well as necessary medical supplies such as wheelchairs, salves and other necessities.

In addition, the bill provides assistance with household tasks and repairs, shopping, walking, transportation to doctors’ office and senior centers; and rent subsidies or private home mortgage costs for those who would otherwise require nursing home care. A three-member board, which could include nurses, doctors, social workers, psychiatrists and others, would be appointed by H.E.W., would be instituted to review each patient’s need for and level of care.

It is irrational to force thousands of persons to accept institutionalization if they can be helped through home health care. The passing of the national home health care bill will correct this injustice. If enacted, it will hopefully act as a stimulus in the development of existing home health services and expansion of such services throughout the country.

I believe that the National Home Health Care Act of 1975, which I introduced in reprinted form on March 12. This bill provides a key alternative to institutionalization. There is no reason why an elderly or disabled person should be institutionalized if it is not necessary. There is no reason to compromise his dignity and independence with unnecessary treatment. The elderly and disabled who would benefit by such an alternative—who now are forced to seek institutionalization, whether in a hospital or a nursing home—should be given the opportunity to keep their integrity. A study done for H.E.W. in January of this year cites figures showing that as many as 60,000 to 90,000 or 14 to 24 percent of the Nation’s one million nursing home patients may be—I quote—unnecessarily retained in an institutional environment.

Such a state of affairs is tragic, for no matter how well maintained a nursing home may be, the fact remains that the patient is depressing—the feeling that one might never leave the facility again to return to the outside world. A major loophole in current medicare/medicaid law is the fact that the alternative, part-time nursing care in the home setting does not require the full range of services of a nursing home, is far cheaper than institutionalization. Estimates by the General Accounting Office, the Library of Congress, and others, depending on the services provided, say that one out of every two medicare and medicaid beneficiaries could be helped through home health care.

I am still not satisfied with the figures we have, but even if the expense approached the nursing home costs, it would be worthwhile because of the positive impact upon the patient. And, in any event, it is possible to structure the cost payments so that an individual reimbursement for care through medicare/medicaid could be up to that local area’s cost for nursing home care for a patient—and mentioning our proposal would clear the issue up. The question of institutionalization is what medicare reimbursements for institutionalization. Thus patients would be given the choice at no additional cost to the Government.

The National Home Health Care Act, H.R. 4772, provides unlimited visiting nurse and doctor charges as well as medicaid reimbursement. Current law provides artificial limits of one hundred visits under medicare for a patient in a nursing home, regardless of hospitalization under part B, if the patient pays for it. Medicaid has no regulations as to the states which can set their own. Our bill pre-empts both the artificial federal and state limits and allows any needed visits up to the cost of that which would have been reimbursed if the patient were institutionalized.

The bill permits additional services to the home health patient such as physical therapy, nutritional guidance, family and personal counseling, as well as necessary medical supplies such as wheelchairs, salves and other necessities.

In addition, the bill provides assistance with household tasks and repairs, shopping, walking, transportation to doctors’ office and senior centers; and rent subsidies or private home mortgage costs for those who would otherwise require nursing home care. A three-member board, which could include nurses, doctors, social workers, psychiatrists and others, would be appointed by H.E.W., would be instituted to review each patient’s need for and level of care.

It is irrational to force thousands of persons to accept institutionalization if they can be helped through home health care. The passing of the national home health care bill will correct this injustice. If enacted, it will hopefully act as a stimulus in the development of existing home health services and expansion of such services throughout the country.

I believe that the National Home Health Care Act of 1975, which I introduced in reprinted form on March 12. This bill provides a key alternative to institutionalization. There is no reason why an elderly or disabled person should be institutionalized if it is not necessary. There is no reason to compromise his dignity and independence with unnecessary treatment. The elderly and disabled who would benefit by such an alternative—who now are forced to seek institutionalization, whether in a hospital or a nursing home—should be given the opportunity to keep their integrity. A study done for H.E.W. in January of this year cites figures showing that as many as 60,000 to 90,000 or 14 to 24 percent of the Nation’s one million nursing home patients may be—I quote—unnecessarily retained in an institutional environment.

Such a state of affairs is tragic, for no matter how well maintained a nursing home may be, the fact remains that the patient is depressing—the feeling that one might never leave the facility again to return to the outside world. A major loophole in current medicare/medicaid law is the fact that the alternative, part-time nursing care in the home setting does not require the full range of services of a nursing home, is far cheaper than institutionalization. Estimates by the General Accounting Office, the Library of Congress, and others, depending on the services provided, say that one out of every two medicare and medicaid beneficiaries could be helped through home health care.

I am still not satisfied with the figures we have, but even if the expense approached the nursing home costs, it would be worthwhile because of the positive impact upon the patient. And, in any event, it is possible to structure the cost payments so that an individual reimbursement for care through medicare/medicaid could be up to that local area’s cost for nursing home care for a patient—and mentioning our proposal would clear the issue up. The question of institutionalization is what medicare reimbursements for institutionalization. Thus patients would be given the choice at no additional cost to the Government.

The National Home Health Care Act, H.R. 4772, provides unlimited visiting nurse and doctor charges as well as medicaid reimbursement. Current law provides artificial limits of one hundred visits under medicare for a patient in a nursing home, regardless of hospitalization under part B, if the patient pays for it. Medicaid has no regulations as to the states which can set their own. Our bill pre-empts both the artificial federal and state limits and allows any needed visits up to the cost of that which would have been reimbursed if the patient were institutionalized.

The bill permits additional services to the home health patient such as physical therapy, nutritional guidance, family and personal counseling, as well as necessary medical supplies such as wheelchairs, salves and other necessities.

In addition, the bill provides assistance with household tasks and repairs, shopping, walking, transportation to doctors’ office and senior centers; and rent subsidies or private home mortgage costs for those who would otherwise require nursing home care. A three-member board, which could include nurses, doctors, social workers, psychiatrists and others, would be appointed by H.E.W., would be instituted to review each patient’s need for and level of care.

It is irrational to force thousands of persons to accept institutionalization if they can be helped through home health care. The passing of the national home health care bill will correct this injustice. If enacted, it will hopefully act as a stimulus in the development of existing home health services and expansion of such services throughout the country.
rational health system should result in a reversal of a trend toward institutionalization, increased satisfaction and moderation of rising costs. 

Definition
In-home health services are the activities and services provided to individuals and families in their places of residence for the purpose of promoting, maintaining or restoring health, or minimizing the effects of illness and disability.

Advantages
Home care produces greater results in relieving human misery. Various studies have revealed:
1. 84-90% of the patients preferred home health care to institutionalization.
2. Home health workers felt that home care could satisfactorily meet the needs of their patients.
3. Home care was the service of choice.
4. Home care enables patients to retain independence.
5. Home care extends services to residents of ghetto, rural and suburban areas. It increases efficiency in utilization of manpower.

Cost
In-home health services lessen the cost of illness:
1. Home care is 31/4 times less expensive per case than hospitalization.
2. Home care costs less expensive per day than skilled nursing home care. (E.C.F.)
In-home health services reduces the high health care costs:
1. Home care saves community funds.
2. Reduces the length of hospitalization.
3. Decreases hospital re-admissions.
4. Makes many nursing home admissions unnecessary.
5. Reduces capital construction costs of new institutional beds. (New Jersey in 1970 saved Medicare an estimated $3.5 million through selective and proper use of home health services, extended care services and hospitals.)
In-home care insures that given amounts of money will accomplish more:
1. Maximizes each individual's potential for self-care.
2. Extends the efficiency and coverage of practicing physicians.
3. Home environment is more conducive to patient learning than the hospital.

Qualified providers
In-home health services must be furnished only by organizations that meet the following criteria:
Primarily engaged in providing in-home health services.
Have a legally identifiable governing body accountable for the management of the agency.
Have established policies, reviewed and approved by a committee of health professionals and consumers.
Provide health services under the direct supervision of appropriate health care personnel.
Maintain appropriate clinical records.
Comply with periodic peer reviews and utilization reviews.
Establish policies and procedures for systematic evaluation and revision of their programs.

Summary
In the past, price has been the least important consideration in health care purchasing. However, we must solve the current dilemma of too many people requiring care, not enough funds, (doctors, nurses, etc.) and not enough money. The home must be re-established as to the center of care so that resources are available to where they can do the most good for all; the tax-payer, the poor, the elderly, the children, the handicapped, and the disadvantaged. Greater utilization in home health services will help develop a high quality health care delivery system that uses the institution as the last alternative.

National Association of Home Health
Policy Statement on Home Health

I. Preamble
It is the responsibility of this nation to provide all people ready access to a rational system of health services. These services must be compatible with the individual's health needs and must be designed to be available at the appropriate place at the appropriate time.
For the past forty years, most health professionals have promoted the concept that the health care system emphasizing institutionalization for acute and chronic illness. Third-party payers through their financing mechanisms have reinforced the traditional attitudes of institutionalization, thus leaving few alternatives and limited choices available to individuals.
One of the essential choices available to individuals within a health care delivery system must be the opportunity to access high quality in-home health services. These services help prevent physical, emotional and mental illness; agencies provide rehabilitation and promote and maintain health and assist in a humane and orderly process of handling illness.
In-home health services will become a viable link in the continuum of health care, when they are considered a necessary part of high quality health care and are provided and financed.
We are committed to a course of action which establishes the home as a center of health care and institutionalization as an alternative to in-home health services.

II. Definition
A. In-home Health Services
Home health care is an essential component of comprehensive health care whereby services are provided to individuals and families in their places of residence for the purpose of promoting, maintaining, or restoring health, or of minimizing the effects of illness and disability. Services appropriate to the needs of that individual patient and family are planned, coordinated, and made available by an agency/institution or unit of an agency/institution rendering the delivery of health care through the use of employed staff, or a combination of administrative and professional personnel.

These services are provided under a plan of care that includes, but is not limited to, skilled nursing, speech therapy, occupational therapy, physical therapy, radiology, surgery, medical therapy, social work, nutrition, homemaking, and home health aide, transportation, laboratory services, and medical equipment and supplies.

This definition has been endorsed by: Representative of the Assembly of Ambulatory and Home Care Services, American Hospital Association; the Council of Home Health Agencies and Community Health Services; National League for Nursing; the National Association of Home Health Agencies; and the National Council for Home-maker/Health Aide Services, Inc.

B. Qualified Providers
In-home health services shall be planned, organized, developed, provided and maintained by an agency which . . .
1. is primarily engaged in providing in-home health services.
2. has a governing body that is readily identifiable and shall be held accountable for the management of the agency and meets all applicable requirements of law of the state or locality in which it furnishes services.
3. has established policies which are periodically reviewed and approved by a committee of health professionals and health consumers, some of whom are not employees of the provider. The committee shall include at least one physician, at least one professional (preferably a nurse), and representatives of health consumers.
4. provides therapeutic services through agency staff under the supervision of appropriate professional health care personnel under established and periodically approved by the responsible physician.
4. maintains appropriate clinical records on all patients.
6. has a periodic peer review mechanism and utilization review by a committee composed of health professionals not primarily involved in the care of the cases reviewed. This committee shall include at least one licensed professional nurse (preferably a public health nurse), and one licensed physician;
6. has established policies and procedures for ongoing systematic evaluation and revision of the total program;
7. has a planned program of orientation and continuing education for all employees and contractual personnel;

Exhibit A: Proposed Legislative Program—Home Health Services
Medically Indicated

The term “home health services” means the items and services furnished by a home health agency to an individual on a part-time or intermittent basis, at a place of residence used as such by an individual under a plan of care collaboratively developed, reviewed and periodically approved by the responsible physician. Home health services may include but are not limited to:
1. Nursing, physical therapy, occupational therapy, medical-social work, nutrition, speech therapy, podiatry, homemaker-home health aide, as are ordinarily furnished by the home health agency for the care and treatment of home health patients;
2. such drugs, biological supplies, appliances and equipment as are ordinarily furnished by such home health agency for the care and treatment of patients;
3. other diagnostic and therapeutic items or services furnished by the home health agency or by others under arrangements with the home health agency, as are ordinarily furnished to patients by either such home health agency or others under similar arrangements; and
4. such other related services necessary to provide for the health and safety of the patient including household services which would prevent unnecessary institutionalization; excluding however:
a. any item or service if it would not be included if furnished to an in-patient of a hospital;
b. lodging (rent, utilities, etc.);
c. any item or service if it would not be covered under arrangements for transfer of patients’ information between other care facilities and in-home health services.

III. Planning, Coordination, Funding and Delivery
A. Comprehensive health planning shall actively involve in-home health agency providers. The planning method of promoting health and optimal function through prevention, treatment, rehabilitation and making people better or all persons who need such services regardless of age, race, sex, religion, economic status, place of residence or state of health.
B. Home health services shall be planned, organized, developed, provided and maintained by an agency which . . .
1. is primarily engaged in providing in-home health services.
2. has a governing body that is readily identifiable and shall be held accountable for the management of the agency and meets all applicable requirements of law of the state or locality in which it furnishes services.
3. has established policies which are periodically reviewed and approved by a committee of health professionals and health consumers, some of whom are not employees of the provider. The committee shall include at least one physician, at least one professional (preferably a nurse), and representatives of health consumers.
4. provides therapeutic services through agency staff under the supervision of appropriate professional health care personnel under established and periodically approved by the responsible physician.
B. maintains appropriate clinical records on all patients.
6. has a periodic peer review mechanism and utilization review by a committee composed of health professionals not primarily involved in the care of the cases reviewed. This committee shall include at least one licensed professional nurse (preferably a public health nurse), and one licensed physician;
6. has established policies and procedures for ongoing systematic evaluation and revision of the total program;
7. has a planned program of orientation and continuing education for all employees and contractual personnel;
establishment of additional in-home health services.

B. In accordance with the goals and objective of comprehensive health planning, we believe that health services should not be fragmented or duplicated. Therefore, we recommend coordination of governmental and private resources at all levels. This is necessary in order to ensure expansion and development of in-home health services and to prevent duplication of health services.

C. In view of the varying in-time and service components responsive to the individual needs of patients, it is essential that all services within the varying levels of home care, as well as for transfer to other care settings.

IV. Differential costs analysis

Due to economic realities, advances in medical technology, better communications and control systems, we believe that the provision of units such as per visit, per hour, per diem, per month, and per case must be evaluated and compared because each in its own way limits the use of services which are provided to individual patients.

We recommend that governmental and private agencies help expedite in-home health service development models that use both functional budget practices and differential cost analysis to arrive at a proper unit cost system.

COLLEGE MISERICORDIA
PRESIDENT

The SPEAKER pro tempore, under a previous order of the House, the gentleman from Pennsylvania (Mr. Flood) is recognized for 5 minutes.

Mr. Speaker, at the end of the current academic year at College Misericordia in Dallas, Pa., marks the conclusion of one of the most dynamic and inspiring tenures of any college president I have ever known. For the past 10 years, Sister Miriam Teresa O'Donnell, R.S.M., has served as president of College Misericordia, and during the course of her administration has overspread the institution has been in leaps and bounds which have won for it the recognition and respect of academicians and colleges and universities throughout the Nation.

College Misericordia means more to me than its mere presence in my congressional district. It is a place in which I have come to know and to love, and its presence in my congressional district has been a source of great pride and satisfaction. Under her leadership, the college has grown in great dimension, with its undergraduate and graduate programs now available to both men and women.

Throughout the years of economic recession after World War II, the college was able to train thousands of women for careers which, if nothing else, provided for the livelihood of families hard hit by unemployment.

The first four decades of significant advances were followed by the unprecedented growth which began with the appointment of Sister Miriam Teresa O'Donnell as president. A native of New York, she obtained her formal education with a bachelor's degree from Hunter College and graduate degrees from Columbia University. As a member of the Order of Sisters of Mercy, she taught science and mathematics at St. Mary's High School in Wilkes-Barre, before joining the faculty of the college in the department of mathematics and physics. She later became chairwoman of the department, prior to her service as president of the school. While her career as an educator has been one of great distinction, her devotion and responsibility to the duties of the religious order where she has spent most of her life have been marked by a dedication of an enriching career. Sister Miriam Teresa O'Donnell served as provincial councilor of the religious Sisters of Mercy in the Scranton province, before becoming executive director of the Scranton province.

In addition to the doctor of laws honorary degree from her own school, Sister Miriam Teresa O'Donnell holds similar tributes from King's College and Loyola University in Maryland. During her career as president, the remarkable advances of the college have made it a distinguished institution of higher learning. The construction of North Hall, a beautiful campus and the maintenance and improvement of its vast facilities make the campus hillside setting worthy of the attention of all who come to ponder the crisis of a day or two. The devout woman is everywhere at College Misericordia, and well it should be.

I could not close my remarks, Mr. Speaker, without paying special recognition to Sister Miriam Teresa O'Donnell for the role she assumed during a time of disaster at a period when much of my congressional district suffered from havoc and misfortune of the worst kind. I refer of course to the awful hurricane Agnes floods of 1972. It was the worst natural disaster in the history of this Republic. Many people, in many ways, contributed to the unbelievable recovery, and Sister Miriam Teresa O'Donnell stands with the best of them. The devastating waters of the Susquehanna River flooded several hospitals, and through the foresight and perseverance of the college's president, the campus immediately became an evacuees' center, a hospital, a staging area for hundreds of people, a site where human services of every nature could be provided. For day and night, week after week, babies were born, the hungry were fed, the destitute were counseled, the sick were cared for, as a college campus became the focal point of life for those whose dreams and realizations were plundered in the wake of disaster. It was the unyielding determination of Sister Miriam Teresa O'Donnell and the president which co-ordinated the effort and made it all possible.

As the coauthor of the historic Agnes Recovery Act, and as a man who had an awful lot to do with the magnificent recovery efforts of thousands who participated in their own comeback, I shall always recall the contribution of this champion of the human spirit whose dedication and others to believe that after all, life could go on, bigger and better than ever.

Mr. Speaker, on the Saturday evening to come, the hundreds of friends and colleagues and I--Sister Miriam Teresa O'Donnell--will gather on the College Misericordia campus at a testimonial dinner which will serve as a small token of the appreciation of all who have come to know and love her. Indeed, I will believe it will have been impossible for me to be present for this great gathering. Unfortunately, I will be in Los Angeles to speak to a national convention of cancer researchers and practitioners in my capacity as chairman of the Appropriations Subcommittee for Labor, Health, Education and Welfare. Indeed, I will believe that I cannot take part in the outstanding program of tributes which will be coordinated by my dear friend, Msgr. Andrew McGown, who is acting as toastmaster.

Mr. Speaker, on behalf of the people of northeastern Pennsylvania and all of the College Misericordia alumni, I say "Ad Multos Annos" to a great woman, a great educator, and a devout participant in the religious order. It can be said of her, as it was said of a great servant in Biblical times, "Well done, thy good and faithful servant."

HOW THE CORPS OF ENGINEERS HAS EXAGGERATED THE INCOME
DEFICIENCIES OF THE WATER PERMIT
PROGRAM UNDER THE WATER
POLUTION CONTROL ACT OF 1972

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the Recom and to include extraneous matter.)

Mr. OTTINGER, Mr. Speaker, I have been dismayed by an overreaction of the Corps of Engineers to the meaning of a decision handed down in March by the U.S. District Court of the District of Columbia defining its water permit responsibilities. The corps has resorted to false and misleading scare tactics in its efforts to try to decrease its responsibilities for the "waters of the United States" which Congress gave the corps in amendments to the Water Pollution Control Act in 1972. The corps, in its desire to shrink its responsibilities, has alarmed millions of people across the Nation by erroneously asserting that "permits may be required by the rancher who wants to enlarge his stock pond, or the farmer who wants to deepen an irrigation ditch, or plow a field, or the mountaineer who wants to protect his land against stream erosion." This outrageous statement was
June 2, 1975

ALTERNATIVE VEHICLE PROPULSION SYSTEMS RESEARCH AND DEVELOPMENT ACT OF 1975

Mr. OTTINGER asked and was given permission to make an extended point in the Rescom and to include extraneous matter.

Mr. OTTINGER. Mr. Speaker, I am today introducing legislation designed to expedite the research of alternative vehicle propulsion systems.

The essence of this legislation is the encouragement of the research and development of steam, electric, hybrid, and other alternative propulsion systems for all vehicles and to demonstrate their commercial feasibility.

Automobiles and other internal combustion vehicles presently consume more than one-third of the petroleum used in the United States. Nothing more dramatic could be done to further "Project Independence" than to free us from the use of oil products for vehicle propulsion.

Alternative systems to the gasoline-powered internal combustion engine have lower atmospheric emissions, and a substantial portion of the carbon monoxide which will be a dramatic reduction in air pollution emissions. Internal combustion engine accounts for more than 50 percent of all air pollution nationally. In addition, many electric and hybrid systems use little or no energy when stopped in traffic, thus conserving energy currently wasted by conventional vehicles.

Electric and steam car are not pipe dreams of the future. They are feasible now.

I am inserting a copy of the bill for the benefit of the Members of the House:
ergy currently wasted by conventional automobiles; and
(10) the power demands of electric vehicles would promote energy conservation by loading utilities in off peak late night hours, permitting more efficient use of plant capacity; and
(11) electric hybrid vehicles can use both electric and fossil fuels, allowing peak capacities for each, thus permitting only the most efficient operation of each, achieving substantial energy savings.

DEFINITIONS
Sec. 3. For the purposes of this act—
(1) the term "electric vehicle" means a vehicle which is propelled by a combination of electric motors drawing current from rechargeable storage batteries, fuel cells, or other portable sources of electrical current. It may include also a non-electrical source of power designed to charge batteries or provide auxiliary power to the wheels;
(2) the term "hybrid vehicle" means a vehicle propelled by a combination of an electric motor and an internal combustion engine or other alternative engine of this Act;
(3) the term "alternative engine" means any steam, electric or hybrid engine or other engine that eliminates or minimizes the use of fossil fuels;
(4) the term "alternative vehicle" means a vehicle powered by an alternative engine.

RESEARCH AND DEVELOPMENT
Sec. 6. The Administrator, acting through appropriate agencies and contractors, shall initiate and provide for the conduct of research and development related to alternative vehicles, including—
(1) energy storage technology, including batteries, chargers, and other equipment;
(2) vehicles and overall design for energy conservation, including the use of regenerative braking;
(3) urban and rural transportation management for minimum transportation-related energy use and minimum transportation-related degradation of the environment;
(4) vehicle design for maximum practical lifetime, ease of repair, and interchangeability and replaceability of parts.

DEMONSTRATION
Sec. 7. (a) The Administrator shall enter into such contracts as may be necessary and appropriate—
(1) for the production, within one year after the date of the enactment of this Act, of significant numbers of urban passenger and commercial vehicles (meeting the standards and criteria developed under subsection (b)) emphasizing alternative propulsion systems, with or without chassis designed for that system; and
(2) for the production, within three years after such date, of significant numbers of urban passenger and commercial vehicles (meeting such standards) which are designed completely with chassis for alternative propulsion.

(b) Within one hundred and twenty days after the date of the enactment of this Act, the Administrator shall promulgate developing, or amending, or rescinding, performance standards and criteria for alternative engines which are suitable for the needs of urban private passenger vehicles and urban commercial vehicles (and which shall be applicable to the vehicles produced under subsection (a)). The standards and criteria so developed shall not be designed simply to reflect the characteristic patterns of use for "second" vehicles, consumer preferences, maintenance, or fuel consumption, and use of alternative fuels but shall be designed to meet the needs of urban private passenger vehicles and urban commercial vehicles and shall include a statement of his current findings in each report submitted under section 12. Any environmental impact statement which may be filed under a Federal law with respect to research, development, or demonstration activities under this Act shall include reference to the matters which are subject to assessment under this subsection.
(c) In carrying out his functions under this Act, the Administrator shall perform or cause to be performed studies and research intended to promote the dissemination and consumer acceptance of alternative vehicle technologies.

ENCOURAGEMENT AND PROTECTION OF SMALL BUSINESS AND SMALL ALTERNATIVE ENGIN MANUFACTURERS
Sec. 10. (a) In carrying out his functions under this Act, the Administrator shall take steps to assure that small business concerns and qualified individuals will have realistic and adequate opportunities to participate in the development and production of small, lightweight, and efficient vehicles.
By unanimous consent, leave of absence was granted to:
Mr. Zefferetti (at the request of Mr. O'Neill), for today, on account of official business.
Mr. Jones of Tennessee (at the request of Mr. O'Neill), for this week, on account of illness.
Mr. Dor H. Clausen (at the request of Mr. Rhodes), for today, on account of official business.

Special Orders Granted
By unanimous consent, permission to address the House, following the legislative program and any special orders hereafter entered, was granted to:
Mr. Patman, for 10 minutes today, and to revise and extend his remarks and include extraneous matter.
Mr. Keys, for 30 minutes, today, and to revise and extend his remarks and include extraneous matter.
Mr. Brounhill, for 5 minutes, today.
(The following Members (at the request of Mrs. Smith of Nebraska) to revise and extend their remarks and include extraneous material:)
Mr. Hammerschmidt, for 5 minutes, today.
Mr. Young of Alaska, for 5 minutes, today.
(The following Members (at the request of Mr. McDonald of Georgia) to revise and extend their remarks and include extraneous material:)
Mr. Metcalfe, for 10 minutes, today.
Mr. Braddock, for 5 minutes, today.
Mr. Morgan, for 15 minutes, today.
Mr. AuCoin, for 5 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. Rostenkowski, for 5 minutes, today.
Mr. Matsunaga, for 10 minutes, today.
Ms. Azacu, for 20 minutes, today.
Mr. St Germain, for 15 minutes, today.

Mr. Annunziato, for 5 minutes, today.
Mr. Doug, for 5 minutes, today.
Mr. Mr. McPike, for 15 minutes, today.
Mr. Koch, for 10 minutes, today.
Mr. Flood, for 5 minutes, today.

extension of remarks
By unanimous consent, permission to revise and extend remarks was granted to:
Mr. Gonzalez, to revise and extend his remarks and to include extraneous matter in the Committee of the Whole today.
Ms. Azeu, to revise and extend her remarks and to include extraneous matter in the Committee of the Whole today.
(The following Members (at the request of Mrs. Smith of Nebraska) to include extraneous matter:)
Mr. Kemp in two instances.
Mr. Latta in three instances.
Mr. Derwinski in two instances.
Mr. Kasten in two instances.
Mr. Findley in five instances.
Mr. Archer in two instances.
Mr. Crooks in two instances.
Mr. Horton in two instances.
Mr. Sarasin in two instances.
Mr. Myers of Indiana in two instances.
Mr. Harren in two instances.
Mr. Ashbrook in five instances.
Mr. Shuster in two instances.
Mr. Young of Florida in five instances.
Mr. Rousselot in two instances.
Mr. Bell in one instance.
Mr. Rhodes in three instances.
Mr. Armstrong in three instances.
Mr. Conte in seven instances.
Mr. Rinaldo in three instances.
Mr. Burgener in five instances.
(The following Members (at the request of Mr. McDonald of Georgia) to include extraneous material:)
Mr. Berkshire in six instances.
Mr. Murphy of New York in two instances.
Mr. DiCicco in two instances.
Mr. Downey of New York in five instances.
Mr. Murphy of Illinois in two instances.
Mr. Flood in one instance.
Mr. Harington in four instances.
Mr. De Lugo in three instances.
Mr. Anderson of California in three instances.
Mr. Annunziato in six instances.
Mr. Gonzalez in three instances.
Mr. Sink in one instance.
Mrs. Lloyd of Tennessee in five instances.
Mr. Rangel in 10 instances.
Mr. Harris in 10 instances.
Mr. Nowak in 10 instances.
Mr. Long of Maryland in 10 instances.
Mr. Brademas in 10 instances.
Mr. Dingell in two instances.
Mr. Euell in 10 instances.
Mr. Stokes in one instance.
Mr. Heffner in one instance.
Mr. de la Garza in 10 instances.
Mr. Frasier in 10 instances.
Mr. Matsunaga in two instances.
Mr. Steed in one instance.
Mr. McDonald of Georgia in four instances.
Mr. McCormack in two instances.
Mr. Zefferetti in two instances.
Mr. Usall in six instances.
Mr. Tague in two instances.

Mr. Wirth in two instances.
Mr. Rodino in one instance.
Mr. Minjau in two instances.
Mr. DeWine in two instances.
Mr. Obey in six instances.
Mr. Bolling in one instance.
Mr. Ford of Tennessee in three instances.
Mr. Chacon in one instance.
Mr. Moffett in two instances.
Mr. Zablocki in two instances.
Mr. Rogers in five instances.
Mr. Flowers in three instances.
Mr. Danielson in two instances.
Mr. Early in two instances.
Mr. Ryan in two instances.
Ms. Azeu in two instances.

Enrolled Bills Signed
Mr. Hays of Ohio, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:
H.R. 3786. An act to authorize the increase of the Federal share of certain projects under title 23, United States Code; and
H.R. 7136. An act to continue the special supplemental food program for women.

Bills Presented to the President
Mr. Hays of Ohio, from Committee on House Administration, reported that that committee did on May 23, 1975 present to the President, for his approval, bills of the House of the following titles:
H.R. 3786. An act to authorize the increase of the Federal share of certain projects under title 23, United States Code; and
H.R. 7136. An act to continue the special supplemental food program for women.

Adjournment
Mr. McDonald of Georgia, Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 51 minutes p.m.), the House adjourned until tomorrow, Tuesday, June 3, 1975, at 12 o'clock noon.

Executive Communications, Etc.
Under clause 2 of rule xxiv, executive communications were taken from the Speaker's table and referred as follows:
June 2, 1975

CONGRESSIONAL RECORD—HOUSE 16309

1112. A letter from the President of the United States, transmitting budget amendments for the legislative branch for fiscal years 1976 and 1977; pursuant to section 6(b) of the Federal Advisory Committee Act (H. Doc. No. 94-170); to the Committee on Appropriations and ordered to be printed.

1113. A letter from the President of the United States, transmitting budget amendments for the Federal Election Commission for fiscal year 1976 and for the transition period July 1 through September 30, 1976 (H. Doc. No. 94-171); to the Committee on Appropriations and ordered to be printed.

1114. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a report and related thereto contained in the report of the National Advisory Council on Education Policy and the Executive Office of the President, pursuant to sections 6(a) and 6(b) of the Federal Advisory Committee Act (H. Doc. No. 94-128); to the Committee on Education and Labor.

1115. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend chapter 5, title 37, United States Code, to extend the special pay provisions for veterinarians to the Armed Forces to the Committee on Armed Services.

1116. A letter from the Assistant Secretary of the Navy, transmitting the omnibus set of contract award dates for the month June 1978; pursuant to section 6(b) of the Foreign Military Sales Act, as amended; to the Committee on Armed Services.

1117. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on loan guarantees and transactions supported by Eximbank during 1976 to Communist countries; to the Committee on Banking, Currency and Housing.

1118. A letter from the Chairman, Advisory Commission on Intergovernmental Relations, transmitting chapter 1 (summary and recommendations) of the report on the Commission's study of problems associated with multistate taxation of commercial activities, pursuant to section 368 of title 2, United States Code; to the Committee on Ways and Means.

1119. A letter from the Secretary of the Navy, transmitting a seminar report on the inventory of non-producible personnel at the U.S. Merchant Marine Academy, to the Committee on Post Office and Civil Service.

1120. A letter from the Secretary of the Army, transmitting a hearing on the status of the Army's intent to purchase a commercial airliner for the Army to the Committee on Armed Services.

1121. A letter from the Chairman, National Advisory Council on Adult Education, dated March 1975, pursuant to section 6(b) of the Federal Advisory Committee Act (H. Doc. No. 94-128); to the Committee on Education and Labor.

1122. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report on recommendations and actions related thereto contained in the annual report of the National Advisory Council on Adult Education, dated March 1975, pursuant to section 6(b) of the Federal Advisory Committee Act (H. Doc. No. 94-128); to the Committee on Government Operations and ordered to be printed.

1123. A letter from the Deputy Director, Office of Manager and Budget, Executive Office of the President, transmitting a report on recommendations and actions related thereto contained in the annual report of the Federal Advisory Committee on National Standards for Education, dated February 1975, pursuant to section 6(b) of the Federal Advisory Committee Act (H. Doc. No. 94-128); to the Committee on Commerce.

1124. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a report on recommendations and actions related thereto contained in the annual report of the Federal Advisory Committee on Financial Assistance to Approved Non-Federal Institutions for Research and Related Activities, dated April 1975, pursuant to section 6(b) of the Federal Advisory Committee Act (H. Doc. No. 94-128); to the Committee on Appropriations.

1125. A letter from the Chairman, National Transportation Safety Board, transmitting a report on the activities of the Board during the calendar year 1974, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

1126. A letter from the Chairman, Indian Claims Commission, transmitting the final determination of the Commissioner of Indian Claims Commission in docket no. 18–B, Ray Mills Indian Community, Suit No. 3, Marie Banda, Arliss W. LaBano, Daniel C. McLaughlin, plaintiffs, v. United States of America, defendant, to the Committee on Interior and Insular Affairs.

1127. A letter from the Acting Secretary of the Interior, transmitting a draft of proposed legislation to amend title 18, United States Code, to provide for settlement, under international agreements, of certain claims incident to the noncombat activities of the Armed Forces, and for other purposes; to the Committee on the Judiciary.

1128. A letter from the Assistant Secretary of State for International Operations, transmitting a copy of a publication entitled "The Financial Outlook for the Electric Power Industry," prepared by the Energy Policy Technical Advisory Committee on Finance; to the Committee on Intergovernmental Relations.

1129. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to amend sections 2734(a) and 2734(b) of title 10, United States Code, to provide for settlement, under international agreements, of certain claims incident to the noncombat activities of the Armed Forces, and for other purposes; to the Committee on the Judiciary.

1130. A letter from the Assistant Secretary of State for International Operations, transmitting a draft of proposed legislation to amend sections 2734(a) and 2734(b) of title 10, United States Code, to provide for settlement, under international agreements, of certain claims incident to the noncombat activities of the Armed Forces, and for other purposes; to the Committee on the Judiciary.

1131. A letter from the Secretary of State, transmitting the annual report on the Department of State to the Congress; pursuant to section 2733 of title 22, United States Code; to the Committee on Appropriations.

1132. A letter from the Secretary of State, transmitting the annual report on the Department of State to the Congress; pursuant to section 2733 of title 22, United States Code; to the Committee on Appropriations.

1133. A letter from the Secretary of Commerce, transmitting the report of the President, pursuant to section 6(b) of the Foreign Military Sales Act, as amended; to the Committee on Government Operations.

1134. A letter from the Secretary of Defense, transmitting the report of the Secretary of Defense, pursuant to section 6(b) of the Foreign Military Sales Act, as amended; to the Committee on Government Operations.

1135. A letter from the Secretary of Defense, transmitting the report of the Secretary of Defense, pursuant to section 6(b) of the Foreign Military Sales Act, as amended; to the Committee on Government Operations.

1136. A letter from the Secretary of Defense, transmitting the report of the Secretary of Defense, pursuant to section 6(b) of the Foreign Military Sales Act, as amended; to the Committee on Government Operations.

1137. A letter from the Secretary of Commerce, transmitting the annual report to the President, pursuant to the Foreign Assistance Act of 1961, as amended (H. Doc. No. 94-172); to the Committee on Appropriations.

1138. A letter from the Secretary of Commerce, transmitting the annual report to the President, pursuant to the Foreign Assistance Act of 1961, as amended (H. Doc. No. 94-172); to the Committee on Appropriations.

1139. A letter from the Secretary of Commerce, transmitting the annual report to the President, pursuant to the Foreign Assistance Act of 1961, as amended (H. Doc. No. 94-172); to the Committee on Appropriations.

1140. A letter from the Secretary of Commerce, transmitting the annual report to the President, pursuant to the Foreign Assistance Act of 1961, as amended (H. Doc. No. 94-172); to the Committee on Appropriations.

1141. A letter from the Secretary of Commerce, transmitting the annual report to the President, pursuant to the Foreign Assistance Act of 1961, as amended (H. Doc. No. 94-172); to the Committee on Appropriations.

1142. A letter from the Secretary of Commerce, transmitting the annual report to the President, pursuant to the Foreign Assistance Act of 1961, as amended (H. Doc. No. 94-172); to the Committee on Appropriations.

1143. A letter from the Secretary of Commerce, transmitting the annual report to the President, pursuant to the Foreign Assistance Act of 1961, as amended (H. Doc. No. 94-172); to the Committee on Appropriations.

1144. A letter from the Secretary of Commerce, transmitting the annual report to the President, pursuant to the Foreign Assistance Act of 1961, as amended (H. Doc. No. 94-172); to the Committee on Appropriations.

1145. A letter from the Secretary of Commerce, transmitting the annual report to the President, pursuant to the Foreign Assistance Act of 1961, as amended (H. Doc. No. 94-172); to the Committee on Appropriations.

1146. A letter from the Secretary of Commerce, transmitting the annual report to the President, pursuant to the Foreign Assistance Act of 1961, as amended (H. Doc. No. 94-172); to the Committee on Appropriations.

1147. A letter from the Secretary of Commerce, transmitting the annual report to the President, pursuant to the Foreign Assistance Act of 1961, as amended (H. Doc. No. 94-172); to the Committee on Appropriations.

1148. A letter from the Secretary of Commerce, transmitting the annual report to the President, pursuant to the Foreign Assistance Act of 1961, as amended (H. Doc. No. 94-172); to the Committee on Appropriations.

1149. A letter from the Secretary of Commerce, transmitting the annual report to the President, pursuant to the Foreign Assistance Act of 1961, as amended (H. Doc. No. 94-172); to the Committee on Appropriations.

1150. A letter from the Secretary of Commerce, transmitting the annual report to the President, pursuant to the Foreign Assistance Act of 1961, as amended (H. Doc. No. 94-172); to the Committee on Appropriations.

1151. A letter from the Secretary of Commerce, transmitting the annual report to the President, pursuant to the Foreign Assistance Act of 1961, as amended (H. Doc. No. 94-172); to the Committee on Appropriations.

1152. A letter from the Secretary of Commerce, transmitting the annual report to the President, pursuant to the Foreign Assistance Act of 1961, as amended (H. Doc. No. 94-172); to the Committee on Appropriations.

1153. A letter from the Secretary of Commerce, transmitting the annual report to the President, pursuant to the Foreign Assistance Act of 1961, as amended (H. Doc. No. 94-172); to the Committee on Appropriations.
voir, Mo., requested by resolutions of the Committees on Public Works, U.S. Senate and House of Representatives on October 24, 1965, and May 8, 1966, respectively, to the Committee on Public Works and Transportation.

1147. A communication from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on Smithfield-James River N.C., and S.C., adopted August 1, 1945, and May 5, 1966, respectively; to the Committee on Public Works and Transportation.

1148. A communication from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on Southern Ohio River Basin, Va., requested by resolutions of the Committees on Public Works, U.S. House of Representatives and U.S. Senate, adopted May 8, 1964, and August 6, 1964, respectively; to the Committee on Public Works and Transportation.

1149. A letter from the Acting Assistant Secretary of Defense (Installations and Logistics), transmitting a report on Department of Defense Appropriations for the fiscal year 1975, and for other purposes to the Committee on Public Works and Transportation.

1150. A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation for the Veterans' Compensation Act, and for other purposes to the Committee on Veterans' Affairs.

1151. A letter from the Chairman, U.S. International Trade Commission, transmitting a record on the concepts and principles which serve as the framework for the International Commodity Code, pursuant to section 608(e)(1) of the Trade Act of 1974 (H. Doc. No. 94-175); to the Committee on Ways and Means and ordered to be printed.

1152. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to upgrade the position of Under Secretary of Agriculture to Deputy Secretary of Agriculture; to provide for two additional Assistant Secretaries for Agriculture to increase the compensation of certain officials of the Department of Agriculture; to provide for the appointment of Directors, Commodity Credit Corporation; and for other purposes; jointly, to the Committees on Post Office and Civil Service, and Agriculture.

RECEIVED FROM THE COMPTROLLER GENERAL

1153. A letter from the Comptroller General of the United States, submitting a report on the examination of the financial statements of the Government National Mortgage Association for fiscal year 1974 (H. Doc. No. 94-176); to the Committee on Government Operations and ordered to be printed.

1154. A letter from the Comptroller General of the United States, transmitting a report on problems in slowing the flow of cocaine into and through America; to the Committee on Government Operations.

1155. A letter from the Comptroller General of the United States, transmitting the fifth semiannual report on the status of selected major weapons systems being acquired by the Department of Defense, jointly, to the Committees on Government Operations and Armed Services.

1156. A letter from the Comptroller General of the United States, transmitting a report on the nuclear power systems concepts that could greatly improve the country's future energy situation; jointly, to the Committee on Government Operations, and the Joint Committee on Atomic Energy.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XXIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on May 22, 1975, the following report was filed on May 29, 1975]

Mr. HUNSCHE: Committee on the Judiciary. H. Res. 7505. A bill to amend the Internal Revenue Code of 1962 to provide for the collection of taxes certain property which is used by the taxpayer as his principal residence and is used in a trade or business and to increase the exemption for levy for books and tools in a trade or business; to the Committee on Ways and Means.

Mr. SCHROEDER: A bill to amend the Internal Revenue Code of 1962 to provide for the collection of taxes certain property which is used by the taxpayer as his principal residence and is used in a trade or business; to the Committee on Ways and Means.

Mr. McFADDEN: H.R. 7502. A bill to amend title 18 of the United States Code to provide that revenue mortuaries or morticians offer preneed burial plans and deposit funds obtained from prepayments in federally insured depository institutions that such deposits be placed in special trust accounts that assure that the funds are only disbursed from such accounts to the Committee on the Judiciary.

Mr. MATSUNAGA: H.R. 7503. A bill to amend the Interstate Commerce Act; to the Committee on Public Works and Transportation.

Mr. HUMPHRIES: H.R. 7504. A bill to amend the Internal Revenue Code of 1954 to exempt from levy for the collection of taxes certain property which is used by the taxpayer as his principal residence and is used in a trade or business; to the Committee on Ways and Means.

Mr. MOORE: H.R. 7505. A bill to amend title 10 of the United States Code in order to provide for the budgeting by the Secretary of Defense, the President, the chairman of the Joint Chiefs of Staff, and the Secretaries of the Armed Services for defense research and development, and demonstration activities designed to promote gas turbine and gas turbine powered vehicles, and to demonstrate the commercial feasibility of such vehicles, and for other purposes; to the Committee on Science and Technology.

Mr. PATMAN: H.R. 7506. A bill to amend section 14(b) of the Federal Reserve Act, as amended, to extend for 2 years the authority of Federal Reserve Banks to purchase U.S. obligations directly from the Treasury; to the Committee on Banking, Currency and Housing.

Mr. PERKINS: H.R. 7507. A bill to amend title XVIII of the Social Security Act to require the continued application of the nursing salary cost differency adjustment which is necessary for determining the reasonable cost of inpatient nursing care for purposes of reimbursement to State agencies under the Medicare program; to the Committee on Ways and Means.

Mr. ROONEY: H.R. 7508. A bill to help improve and maintain an adequate transportation system through the systematic collection and publication of transportation statistics, to establish a National Center for Transportation Statistics, and for other purposes; to the Committee on Public Works and Transportation.

Mr. ROSTENSKOWSKI: H.R. 7510. A bill to permit officers and employees of the Federal Government to elect coverage under the old-age, survivors, and disability insurance system; to the Committee on Ways and Means.

Mr. TAYLOR (for himself, Mr. HAYES, and Mr. VANDERHORST): H.R. 7511. A bill to authorize the Secretary of the Interior to convey to the city of Haines, Alaska, for the use of the United States in certain lands; to the Committee on Interior and Insular Affairs.

Mr. RUSSELL: H.R. 7512. A bill to amend the Internal Revenue Code of 1954 to provide that section 403(b) of such code shall not apply with respect to certain interest paid by certain dealers in connection with the purchase of tax-exempt obligations; to the Committee on Ways and Means.

Mr. DANIELSON (for himself, Mr. HELSTOSKI, Mr. MAUPIN, and Mrs. SCHROEDER):
CONGRESSIONAL RECORD — HOUSE

June 2, 1975

H.R. 7513. A bill to amend section 204 of the Federal Water Pollution Control Act to authorize and require that effluent limitations which satisfy the user charge system requirement, to the Committee on Public Works and Transportation.

By Mr. CONTE:—H.R. 7514. A bill to amend section 204 of the War Claims Act of 1946 to permit ad
judication of the claims of additional persons for certain World War II losses, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HASTINGS (for himself, Mr. MACHROW, Mr. CONNOLLY, Mr. FLOW
n-none, Mr. STROESSNER, Mr. FRY, Mr. TAYLORMAN, Mr. NEWTON, and Mr. Murphy of New York):—H.R. 7515. A bill to assist in the settle
ment of medical malpractice claims through a Federal program of reinsurance and through voluntary arbitration under State laws, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. KASTENMEIER:—H.R. 7516. A bill to amend the Consolidated Farm and Rural Development Act, to provide an alternate method of making loans for acquiring improvements of farm
real estate which is needed by farm families, including young farmers, and to provide the borrower family with adequate standards of living and the community with stable prices for dairy and other agricultural products, as well as to maintain and improve national health, and for other purposes; to the Committee on Agriculture.

By Mr. RICHMOND:—H.R. 7517. A bill to establish the Federal Municipal Bond Guarantee Administration to guarantee municipal bonds; to the Committee on Interstate and Foreign Commerce.

By Mr. RICHMOND (for himself, Mr. RIZZLE, Mr. HAWKINS, Mr. SOLARE, Mr. MACHROW, Mr. NIX, Mr. STROESSNER, Mr. TAYLOR, Mr. NEWTON, and Mr. SMALL of Illinois):—H.R. 7518. A bill to amend the Food Stamp Act of 1964 to provide for improved and more extensive means of distributing food stamp informational materials, to improve the application procedure for food stamp appli
ants, and to provide special assistance in areas of high unemployment; to the Committee on Agriculture.

By Mr. RIZZLE:—H.R. 7519. A bill to amend title II of the Federal Water Pollution Control Act to provide for Public Works and Transportation.

By Mr. THONE:—H.R. 7520. A bill to amend the Federal Trade Commission Act (15 U.S.C. 41) to pro
vide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. THOMAS:—H.R. 7521. A bill to amend section 2040 of the Internal Revenue Code of 1954 to pro
vide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. WHITTHURST:—H.J. Res. 477. Joint resolution to proclaim October 19th as Cable Television Month; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

160. By Mr. EDGAR:—H.R. 7522. A memorial of the Legislature of the State of Wisconsin, relative to the State of Wisconsin, relative to expanding Federal inspection of dairy products; to the Committee on Agriculture.

161. Also, memorial of the Legislature of the State of Hawaii, relative to releasing 13,248 acres of ceded land to the State of Hawaii; to the Committee on Armed Services.

162. Also, memorial of the Legislature of the State of Tennessee, relative to extending the Federal revenue sharing law beyond 1976; to the Committee on Government Operations.

163. Also, memorial of the Legislature of the State of Connecticut, relative to providing assistance to Israel; to the Committee on International Relations.

164. Also, memorial of the Senate of the Commonwealth of Massachusetts, relative to obtaining the return of the remains of Marine Cpl. Charles McMahon, Jr., from South Vietnam; to the Committee on International Relations.

165. Also, memorial of the Legislature of the State of Nevada, relative to negotiating with Canada to stabilize the price of natural gas; to the Committee on International Relations.

166. Also, memorial of the Legislature of the State of California, relative to bilingual television programming; to the Committee on Interstate and Foreign Commerce.

167. Also, memorial of the Legislature of the State of New Hampshire, relative to investigating pricing of and problems related to energy resource supplies; to the Committee on Interstate and Foreign Commerce.

168. Also, memorial of the Legislature of the State of Maine, relative to priority use of natural gas for irrigation purposes; to the Committee on Interstate and Foreign Commerce.

169. Also, memorial of the Legislature of the State of Maine, relative to assisting Vietnamese refugees resettle; to the Committee on Interstate and Foreign Commerce.

170. Also, memorial of the Legislature of the State of Nevada, relative to the Interstate Commerce and Disaster Com
 pact to the Committee on the Judiciary.

171. Also, memorial of the Legislature of the State of Arizona, relative to the trans
mital of Federal census data to the States; to the Committee on Post Office and Civil Service.

172. Also, memorial of the Legislature of the State of Tennessee, relative to reestablishing the Concord Post Office as a separate entity; to the Committee on Post Office and Civil Service.

173. Also, memorial of the Legislature of the State of Maine, relative to the use of se
lective taxes as a means to reduce consumption of petroleum based fuels; to the Committee on Ways and Means.

174. Also, memorial of the Legislature of the State of Maine, relative to changing the proposed Federal regulations for title XX of the Social Services Act of 1974; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

175. By Mr. EDGAR:—H.R. 7522. A bill for the relief of Robert H. Glaser; to the Committee on the Judiciary.

176. By Mr. HARRINGTON:—H.R. 7523. A bill for the relief of Zin Kee Ng, to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

180. By the SPEAKER:—Petition of Edward E. Kubista, Owatonna, Minn., relative to un
claimed Federal funds; to the Committee on Government Operations.

181. Also, petition of Rev. James Coleman Jr., Chico, Ill., relative to disposition of Creek Indian funds; to the Committee on Interior and Insular Affairs.

182. Also, petition of the South Suburban Association of Chiefs of Police, Blue Island, Ill., relative to the funding of the law en
forcement education program; to the Committee on the Judiciary.

183. Also, petition of the city council, St. Marys, Ohio, relative to deconcentration of ownership in the sewer field; to the Committee on the Judiciary.

184. Also, petition of Mr. Edward Sersyakos, New York, N.Y., relative to redress of griev
ances; to the Committee on the Judiciary.

185. Also, petition of Paul J. Parobeck, Cleveland, Ohio, relative to redress of griev
ances; to the Committee on the Judiciary.

186. Also, petition of the Wisconsin Na
tional Guard Association, Madison, Wis., relative to increasing retirement annuity credit for past technician service by National Guard technicians; to the Committee on Post Office and Civil Service.

187. Also, petition of the board of directors, Texas Highway-Heavy Branch, Associated General Contractors, Austin, Tex., relative to exempting highway construction projects from Federal Government increase of the price of oil; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4925. By Mr. OTTINGER:—Page 119, line 1, strike "$216,000,000" and insert "$240,000,000."

H.R. 4919. By Mr. McCLORY:—Page 1, line 6, strike out "twenty" and insert in lieu thereof "seventeen".

Page 2, strike out item 1 and 2 and insert in lieu thereof the following:

"(1) striking out '1975' and inserting '1982' in lieu thereof; and"

By Mr. BOSCH:—Page 9, line 23, immediately after "heri
itage" insert the following: "or who are part of a group of the membership of the Census determines has a mother tongue other than English."

H.R. 6860. By Mr. GIBBONS:—At the end of the bill add the following new section:

SEC. 9. REPEAL OF PERCENTAGE DEPLETION ON ALL OIL AND GAS ROYALTY INCOME. (a) Subsection (d) of section 613A of the Internal Revenue Code of 1954 (relating to
persons entitled to percentage depletion on 2,000 barrels of oil per day) is amended by adding at the end thereof the following new paragraph:

"(5) Royalty income excluded.—Subsec
ction (e) shall not apply to income derived from a nonoperating mineral interest as de
fined in section 614. In applying such defini
tion for purposes of this paragraph, the tax
payer's share of the fees of production of the oil or gas shall be treated as zero if his percentage share of such costs is substantially less than his percentage share of the production."

By the amendment made by subsection (a) shall apply to income received on and after the date of enactment of this Act.