yesterday when the Texas delegation had the football players here at a reception.

However, I understand they are going to meet with the Fighting Irish, and they had better look out for themselves with all those Poles, Lithuanians, and Bohemians on that Irish team.

Mr. PICKLE. If the gentleman will yield, how does this Irishman spell KLUCZYNSKI?

Mr. KLUCZYNSKI. It is easier to spell KLUCZYNSKI than it is to spell PICKLE backward.

## LEGISLATION EXTENDING THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

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

Mr. MAYNE. Mr. Speaker, the President's message to Congress asking for a 3-year extension of legislation creating the National Foundation on the Arts and the Humanities shows his keen awareness of the Foundation's great potential for stimulating and improving America's cultural life. The President has very accurately stressed the urgent need for protecting and improving our cultural environment and has realistically defined the Federal role in attaining this objective as supportive rather than primary. The substantial additional funds requested for the Foundation in the message prove that this administration is not just working for our country's material progress which is, of course, very important, but also has a deep concern for things of the spirit. I was particularly impressed by the statement that culture is not the exclusive property of big cities, but belongs to all Americans in every region and community.

The President made a most propitious beginning in this area last September by naming the highly capable and experienced Nancy Hanks, president of the Associated Councils of the Arts, as the new Chairman of the National Council on the Arts. In his message yesterday he demonstrated that Miss Hanks will have his full backing in developing an effective program. I believe this message will meet with the country's approval and the Congress should move promptly to implement it.

## TRIBUTE TO JAMES FREE

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

Mr. BEVILL. Mr. Speaker, for a number of years, Mr. James Free has served as Washington correspondent for the Birmingham News, of Birmingham, Ala. Prior to this, Jim served as Washington correspondent for the Chicago Sun, and staff writer for the Washington Evening Star and Richmond Times Dispatch. Throughout this time, Jim Free has distinguished himself as a journalist of the highest caliber.

Mr. Speaker, I would like to take this time to offer a well-deserved tribute to Jim.

In an age when the volume of legislative work before Congress is staggering, Jim Free continues daily to effectively come up with the most important happening in the Nation's Capital. He has an instinctive gift for sifting through the mass of material and turning out informative, interesting articles. His ability and thoroughness undoubtedly place him among the most talented correspondents in Washington, D.C.

Needless to say, many awards and tributes have come his way. But Jim continues his steady course, keeping his perspective and objectivity.

Today our society needs, indeed must have, a truthful, comprehensive and intelligent account of the days' events in a form that gives them meaning and understanding. Thanks to correspondents like Jim Free, this is possible.

Through the efforts of these dedicated journalists, the press today remains a vigorous and vital institution. They are helping to forge a better understanding between the people and their government. And for this we should all be grateful.

## PROVIDING FOR PRINTING OF PROCEEDINGS INCIDENT TO PRESENTATION OF PORTRAIT OF SAMUEL N. FRIEDEL

Mr. DENT. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 741) on the resolution (H. Res. 744) providing for the printing of the proceedings in the Committee on House Administration incident to the presentation of a portrait of the Honorable SAMUEL N. FRIEDEL, and ask for immediate consideration of the resolution.

The Clerk read the resolution, as follows:

H. RES. 744

*Resolved,* That the transcript of the proceedings in the Committee on House Administration of October 6, 1969, incident to the presentation of a portrait of the Honorable Samuel H. Friedel to the Committee on House Administration be printed as a House document with illustrations and binding in such style as may be directed by the Joint Committee on Printing.

SEC. 2. In addition to the usual number, there shall be printed two hundred and fifty copies of such document for the use of the Committee on House Administration.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## AUTHORIZING PRINTING OF MANUSCRIPT ENTITLED "SEPARATION OF POWERS AND THE INDEPENDENT AGENCIES: CASES AND SELECTED READINGS"

Mr. DENT. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 742) on the Senate concurrent resolution (S. Con. Res. 44) to authorize printing of the manuscript entitled "Separation of Powers and the Independent Agencies: Cases and Selected Readings," as a Senate document, and ask for immediate consideration of the Senate concurrent resolution.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 44

*Resolved by the Senate (the House of Representatives concurring)* That the manuscript entitled "Separation of Powers and the Independent Agencies: Cases and Selected Readings", prepared for the Subcommittee on Separation of Powers of the Senate Committee on the Judiciary by the Legislative Reference Service of the Library of Congress, be printed as a Senate document.

SEC. 2. There shall be printed for the use of the Senate Committee on the Judiciary one thousand additional copies of the document authorized by Section 1 of this concurrent resolution.

With the following committee amendment:

Strike out section 2 and substitute in lieu thereof a new section 2 as follows:

"SEC. 2. There shall be printed six thousand additional copies of the document authorized by Section 1 of this concurrent resolution of which one thousand shall be for the use of the Senate Committee on the Judiciary, and five thousand shall be for the use of the House of Representatives."

The committee amendment was agreed to.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

## AUTHORIZING THE PRINTING OF A REPORT ENTITLED "HANDBOOK FOR SMALL BUSINESS" AS A SENATE DOCUMENT

Mr. DENT. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 743) on the Senate concurrent resolution (S. Con. Res. 46) authorizing the printing of a report entitled "Handbook for Small Business" as a Senate document, and ask for immediate consideration of the Senate concurrent resolution.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 46

*Resolved by the Senate (the House of Representatives concurring),* That a publication of the Senate Select Committee on Small Business entitled "Handbook for Small Business, 3rd Edition, 1969," explaining programs of Federal departments, agencies, offices, and commissions of benefit to small business and operating pursuant to various statutes enacted by the Congress, be printed with illustrations as a Senate document; and that there there be printed twenty-eight thousand two hundred additional copies of such document, of which twenty-three thousand two hundred copies shall be for the use of the Senate Select Committee on Small Business, and five thousand copies shall be for the use of the House Select Committee on Small Business.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

## EXTENSION OF VOTING RIGHTS ACT OF 1965

Mr. CELLER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for further consideration of the bill (H.R. 4249) to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices.

The motion 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 further consideration of the bill H.R. 4249, with Mr. BOLLING in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on yesterday, the gentleman from New York (Mr. CELLER) had 59 minutes remaining, and the gentleman from Ohio (Mr. McCULLOCH) had 1 hour and 1 minute remaining.

The Chair recognizes the gentleman from Ohio.

Mr. McCULLOCH. Mr. Chairman, I yield myself 20 minutes.

Mr. Chairman, let us not tamper with success.

The Voting Rights Act of 1965 is the most effective civil rights law on voting rights enacted in our history. It has proven itself seven times as effective as our three prior attempts combined. Under its protection, between eight hundred thousand and a million blacks have registered to vote.

No one can deny that the Voting Rights Act of 1965 works. No one can deny that there was and still is a glaring need for this legislation. No one can deny in view of South Carolina against Katzenbach, that the Congress has the power to enact such legislation.

In 1965, the House overwhelmingly adopted this legislation. The vote was 328 to 74.

Today, we consider H.R. 4249 which would extend sections 4 and 5 of the Voting Rights Act for an additional 5 years. The bill would thus restore the Voting Rights Act to its original legislative form. When the act was originally introduced as H.R. 6400 of the 89th Congress, it was thought that 10 years would be needed to overcome the effects of centuries of discrimination. No evidence was offered to contradict the 10-year estimate of the Justice Department. However, in order to gain the votes necessary for cloture in the other body, a compromise was reached and "10 years" was changed to "5 years."

Experience has proved that the original estimate was correct.

The South has not to any appreciable extent suffered a change of heart. Progress has been made only by impact of Federal law and not through generosity of spirit. In hearings before the Judiciary Committee, the Civil Rights Commission testified:

> The history of white domination in the South has been one of adaptiveness, and the passage of the Voting Rights Act and the increased black registration that followed has resulted in new methods to maintain white control of the political process.

What are these new methods by which the South achieves an old goal? Here are just a few:

Boundary lines are gerrymandered to dilute black voting strength;

Elections are switched to an at-large basis;

Counties are consolidated;

Elective offices are abolished where blacks have a chance of winning;

The appointment process is adopted in lieu of the elective process;

Polling places where a large turnout of black voters is expected are changed at the 11th hour;

Election officials suddenly decide to "go fishing" when blacks come to file or to register; and

Economic and physical intimidations are employed. Yes, it is still happening down South.

Will all this be put to an end by simply abolishing literacy tests? I ask the supporters of the administration bill in all sincerity, how can we solve the problem of discrimination against the southern black voter by doing less?

Our goal is full enjoyment of the right to vote for all Americans. That goal is not secured by outlawing only one method of discrimination while allowing the other hundreds of ways to take their toll.

Every day in the South we witness a new way to discriminate. But the administration bill would attack only one—the use of literacy tests. All the rest is retreat.

If a dam has a hundred holes and you fix one, the water still comes through. That is why the attorney general of Mississippi prefers the administration bill to the committee bill.

Whereas the administration bill attacks literacy-test discrimination, the committee bill attacks all methods of discrimination.

Section 4 of the act attacks the discriminatory use of literacy tests. Section 5 of the act attacks all the other ingenious methods of discrimination in voting.

The administration bill would ban literacy tests whether or not employed to discriminate on the basis of race or color. Under section 4 of the act, any jurisdiction covered by the formula can prove that it does not discriminate and be removed from coverage. The administration criticizes the act because the burden of proof is placed upon the local jurisdiction. But ironically, the administration bill would not even allow such a jurisdiction the opportunity to prove its innocence. Rather, the administration bill irrefutably presumes guilt.

Thus, while the act permitted Wake County, N.C., for example, to prove that its literacy test was not employed in a discriminatory manner and thus escape coverage, the administration bill would force Wake County to stop using literacy tests, even though they were constitutionally proper. The same would be true for counties in Idaho and Arizona as well as the entire State of Alaska, all of whom have been exculpated by court decree. Constitutional State laws constitutionally applied would be outlawed. Why?

I ask you, Why?

Is this an example of the new federalism? Where does Congress get the power to strike down valid State laws for no reason? What is the Federal interest that is being vindicated?

Section 5 of the act is a remedy aimed at all the other forms of discrimination in voting. The administration bill—as Father Hesburgh, Chairman of the Civil Rights Commission, said—would "gut" this key provision of the act. It would be, he said, "a distinct retreat."

Section 5 now requires that a jurisdiction covered by section 4 must clear new voting laws and practices with the Attorney General as the district court in the District of Columbia before they become effective. The administration bill would in effect repeal section 5 and replace it with a remedy already proven to be a failure in the South, that of case-by-case litigation.

First. The turtle pace of litigation is simply too slow to catch up with rapid changes in voting laws and practices that regularly occur in the South, especially just before elections. Section 5 would not allow the rules of an election to be changed at the last minute, for it delays the effective date of a new change for 60 days unless the Attorney General or the district court previously approve the change. As the Supreme Court said in *South Carolina* v. *Katzenbach*, 383 U.S. 301 (1966):

> After enduring nearly a century of systematic resistance to the Fifteenth Amendment, Congress might well decide to shift the advantage of time and inertia from the perpetrators of the evil to its victims.

Second. Without section 5, the Justice Department would not be promptly and regularly apprised of changes in voting laws and practices. This would be particularly unfortunate because under the administration bill the Justice Department would be responsible for finding discrimination and suing to enjoin it.

Third. The preclearance procedure—and this is critical—serves psychologically to control the proliferation of discriminatory laws and practices because each change must first be federally reviewed. Thus section 5 serves to prevent discrimination before it starts.

Fourth. The burden of proof under section 5 is rightfully placed upon the jurisdiction to show that the new voting law or procedure is not discriminatory. As in tort law, when circumstances give rise to an inference that there has been misconduct, the party that has access to the facts is called upon to rebut the inference and show that its conduct was proper. Under the administration proposal the burden of proof would be taken from those who knew most and shifted to those who knew least. It would be taken, to paraphrase the Court from the perpetrators of evil and shifted to their victims.

Fifth. Under section 5 it is the district court for the District of Columbia that hears the case. This is not unusual, for the defendant, the United States, resides here. Beyond that, there are certain definite advantages:

The decisions reflect an attitude friendly to the cause of civil rights;

The decisions are rendered without unnecessary delay; and

The decisions are uniform. Under the administration bill all these advantages are lost.

Sixth. Section 5 now permits private citizens to police the local jurisdictions. This was not clear until last March when the Supreme Court handed down the Allen decision. Thus, if the State government and the Federal Government forget that section 5 exists, an interested citizen can compel the jurisdiction to obey sec-

tion 5 and enjoin the new law or practice, not because it is discriminatory but because it was not cleared under section 5.

The Supreme Court in Allen perceived the need for private enforcement. The Court said:

> The achievement of the Act's laudable goal would be severely hampered, however, if each citizen were required to depend solely on litigation instituted at the discretion of the Attorney General.

The Attorney General testified that the administration bill would not authorize private suits under section 5.

Upon analysis, the administration bill sweeps broadly into areas where the need is slight and retreats from areas where the need is great. On the one hand, it bans literacy tests in States from which neither the Justice Department nor the U.S. Commission on Civil Rights, nor the NAACP, nor the ACLU have yet received a single complaint. On the other hand, it drastically relaxes the Federal attack on discrimination in States where the evidence shows that there is unflagging dedication to the cause of creating an ever more sophisticated "legal" machinery for discriminating against the black voter.

This is the heart of the issue. The administration bill—as I advised the Attorney General when he testified before the committee—creates a remedy for which there is no wrong and leaves grievous wrongs without adequate remedy. And I ask you now as I did ask him then, what kind of civil rights bill is that?

It is a weaker bill. It is a retreat. I do not know and I do not care what motives generated the administration bill. I simply read the language and judge its effect. As one who has fought long and hard for civil rights and human rights over the years, I must say that the administration bill is a bad bill. It is advertised as a strong civil rights bill. But actually, it is a sheep in wolves' clothing.

The Voting Rights Act of 1965 does not affect all States and all localities and all people equally. No remedy ever does. The act does attempt to secure the right to vote on a uniform basis. The standard is the same for all: Section 2 forbids discrimination in voting on the basis of race in every nook and cranny of this country. Section 3 establishes a judicial remedy equally applicable in all parts of the country. However, experience with the judicial remedies legislated in 1957, 1960, and 1964 has made clear that they are far too weak to achieve the goals in certain parts of the country. In those areas, to secure the goal of equal voting rights, a stronger remedy was needed. Sections 4 and 5 of the act reflect that need.

There is nothing in reason or authority which requires that a remedy treat all alike. We do not put all men in jail because some commit a crime. We do not give flood relief to everyone because one locality experiences a flood. We do not give food stamps to everyone because some are poor.

Likewise, we should not suspend all literacy tests on evidence that some discriminate on the basis of race. Likewise, we should not require every jurisdiction to clear its voting laws and practices with the Attorney General because some jurisdictions have shown a pattern of racial discrimination.

No, we should aim the remedy at the need, as we have always done. The Voting Rights Act of 1965 is in that tradition.

H.R. 4249 is founded on the facts stated by the Attorney General in his testimony—the undeniably crying need for strong remedies in the covered States and the total absence of complaints in the noncovered States.

Renew or retreat—that is the choice. Let us move forward together.

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

Mr. ROGERS of Colorado. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Chairman, I am pleased and honored to follow the gentleman from Ohio (Mr. MCCULLOCH).

Mr. WAGGONNER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Seventy-one Members are present, not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 315]

| | | |
|---|---|---|
| Ashley | Gallagher | O'Konski |
| Baring | Giaimo | Ottinger |
| Buchanan | Griffiths | Powell |
| Byrne, Pa. | Gubser | Pryor, Ark. |
| Cahill | Harsha | Rees |
| Carey | Hawkins | Reid, N.Y. |
| Celler | Hays | Reifel |
| Chamberlain | Hébert | Riegle |
| Chisholm | Hosmer | Rivers |
| Clark | Hull | Ruppe |
| Clay | Keith | Scheuer |
| Conyers | King | Sikes |
| Daniel, Va. | Kirwan | Sisk |
| Dawson | Kyl | Stokes |
| Dickinson | Landrum | Teague, Tex. |
| Diggs | Lipscomb | Thompson, N.J. |
| Edwards, Calif. | Long, La. | Utt |
| Eilberg | Mailliard | Vander Jagt |
| Evins, Tenn. | Marsh | Waldie |
| Fascell | Moorhead | Weicker |
| Fisher | Moss | Whalley |
| Flood | Nedzi | Wilson, |
| Foreman | Nichols | Charles H. |
| Fulton, Tenn. | | |

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. BOLLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, H.R. 4249, and finding itself without a quorum, he had directed the roll to be called, when 364 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The gentleman from California (Mr. CORMAN), is recognized.

Mr. CORMAN. Mr. Chairman, I am pleased to follow the gentleman from Ohio (Mr. MCCULLOCH). It has been my privilege to follow his leadership in civil rights legislation for the past 7 years.

This matter is of the utmost importance to this Nation. There is no greater problem than that which has plagued us for all of our time as a nation; a lack of equal justice for all Americans. There have been many important legislative steps taken in the past 12 years to end racial injustice. They have always been bipartisan. They have always been the handiwork of the gentleman from New York (Mr. CELLER), and the gentleman from Ohio (Mr. MCCULLOCH), and supported by a broad cross-section of concerned Americans on both sides of the aisle. And that is as it should be.

After all, the Republican Party was founded out of racial crisis by Abraham Lincoln. Turning to my own party, starting with the Presidency of Franklin Delano Roosevelt, a new dimension was given to American equality, and that dimension has grown consistently under four Democratic Presidents. And no one will ever be able to overstate the great contribution made in this area by President Eisenhower when he appointed the Republican Governor from my State, Earl Warren, to serve as Chief Justice. So it is fitting that today on a bipartisan basis, we continue a very important part of civil rights legislation for another 5 years.

We have a new element to consider today. We have a new Attorney General, and he opposes continuing this legislation. He has a counterproposal. I have been interested in the Attorney General, and I have read a little bit about him. I read in the New Yorker magazine that a lawyer who heard the Attorney General at the ABA convention said he wondered how the Attorney General could continue to describe himself as a moderate. I quote the lawyer who observed him:

> Apparently he just puts himself down as being in the center and then places everyone else to the left or to the right.

Mr. Chairman, I think I have found the Attorney General's position in civil rights. There are some folks who say that Negroes ought to ride in the back of the bus, and there are others who say that Negroes should be allowed to vote, and the Attorney General apparently rejects both of those extremes. His proposal would effectively deny to well over 1 million Americans needed protection of their right to participate in their Government.

If we are to work our way out of the abrasive conflicts of our time with any degree of peace and tranquillity, every American is going to have to understand that he has an equal right with each other American to participate in public decisions.

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

Mr. CORMAN. I yield to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Chairman, to help my understanding of the arguments raised by my distinguished colleague from California (Mr. CORMAN) would the gentleman be specific in telling me and the other Members of the body in what way the Attorney General's proposal would deny other Americans the right to vote.

Mr. CORMAN. Yes, sir. The key part of the Voting Rights Act is that States may not change their voting laws without submitting them first to the Attorney General and making them public, and the Attorney General then has 60 days to—in a real sense—veto them.

One need only review the record of the Civil Rights Commission to see the great ingenuity of those of the Deep

South who have prevented Negroes from voting for a century, to see that they can easily devise new methods if this safeguard is removed. This is the bar against denying the Negro in the South the right to vote. Just remove that bar, and we remove the Negro from the registration roll and we remove him from the polling place.

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

Mr. CORMAN. I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, I was wondering if the gentleman has any concern at all for another principle of our Federal Government, known as our federal system, in passing a law which requires that before a State law can go into effect, whether it has been challenged or not, the State must come here and get Federal permission.

Mr. CORMAN. I understand the question.

Yes, sir. I have no concern at all, considering what was being done in the Deep South, what unconstitutional, un-American, and immoral conduct was used in the South to deny Negroes the right to vote. It does not bother me a bit that the Federal Government has stopped that conduct.

I would like to say to those who question whether there is any real difference in these two bills, all I ask is for them to look at the players today. Look at who is supporting the administration bill and look at who is supporting the continuation of the existing voting rights law. One cannot in good conscience have any question left about what he will do if he believes in protecting the rights of American citizens.

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

Mr. CORMAN. I yield to the gentleman from Georgia.

Mr. FLYNT. Did I correctly understand the gentleman to say if this law were made applicable to all 50 States that certain Southern States could pass laws denying citizens the right to vote?

Mr. CORMAN. I understand the gentleman's question.

Mr. FLYNT. Did I understand the gentleman correctly?

Mr. CORMAN. There is no real similarity between these two bills. They are completely different in the key point. The key point is whether or not Federal power can effectively stop the States from changing their voting laws for discriminatory purposes. That is the only issue. That is not being proposed by the Attorney General to be extended to all the States. That is to be repealed by the Attorney General's proposal that will end the rights of hundreds of thousands of Negroes to vote.

Mr. FLYNT. I wonder if the gentleman would answer my question: Did he make the statement as I understood him to make it?

The CHAIRMAN. The time of the gentleman from California has again expired.

Mr. ROGERS of Colorado. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. CORMAN. Yes, sir; that is my position.

Mr. FLYNT. Would not the law applying to those six States and parts of three other States still apply to them?

Mr. CORMAN. No, sir; it would not. That is my great concern. That one effective barrier which is the real protection of the Negro's right to vote would be gone.

Mr. ROGERS of Colorado. Mr. Chairman, I yield 5 minutes to the gentleman from Alabama (Mr. FLOWERS).

Mr. THOMPSON of Georgia. Mr. Chairman, will the gentleman yield in order that I may answer the gentleman who just preceded him on a very important point as to whether the Government has the right to come in and enjoin any unfair voting laws?

Mr. FLOWERS. I have only 5 minutes. If the gentleman would allow me to yield at the conclusion of my remarks I would be happy to do so then.

Mr. Chairman, I trust my distinguished and able committee chairman, the gentleman from New York, will not think me ungrateful or discourteous if I refrain from the usual commendations to him for his effective and, up to this point, highly successful work on this particular bill.

And the same goes for the distinguished gentleman from Ohio, the ranking minority member.

The mountain of civil rights legislation that we already have is recognition enough, and it is no small wonder that many citizens of the South wonder when the shackles will be removed.

The committee bill asks for another 5 years. It might as well seek a perpetual existence so far as its damage to the rights of the seven Southern States is concerned.

Some may ask, when is the South going to come back into the Union? I would pose the question differently: When are you going to let us back in?

At the beginning I wish to make crystal clear my determination to defend and protect the right of every qualified voter in the United States to cast his ballot freely for the candidates of his choice and to have that ballot counted exactly as cast.

If the pending legislation went only to the protection of such rights and applied equally to all States throughout the Nation, then I would not be here in opposition today. However, Mr. Chairman, the bill presently under consideration is not molded with such a noble purpose in mind. It seeks to double the life of one of the most discriminatory and prejudicial laws ever enacted or conceived in the Halls of Congress.

The Voting Rights Act of 1965 was directed at seven Southern States and is a glaring example of political expediency at its worst. Once again the South has become the favorite whipping boy.

It seems odd to me that some who can feel so strongly about an extension of this 1965 act yet can be so adamant and sanctimonious in their opposition to a national application of the same principles.

If such legislation is so good for one section of our great Nation, why should not all sections be allowed to drink from the same cup? To extend this act at the present time will only further compound its inherent inequities in several specific areas.

Mr. MIKVA. Mr. Chairman, will the gentleman yield for one question?

Mr. FLOWERS. First permit me to finish my statement and then I shall yield to the gentleman.

Mr. Chairman, a mere extension of the Voting Rights Act of 1965 predicated upon statistics compiled in the 1964 presidential election would, in my judgment, place this Congress in the position of knowingly disregarding the 1968 election to the detriment of at least five States presently covered by the act. The use of outdated statistics cannot be justified by any system of logic. In 1965, Congress said that the act should apply only in those States where less than 50 percent of the voting age population turned out for the 1964, the most recent, presidential election. Continuing the existence of this act for an additional 5 years while retaining a base which is already 5 years old would be completely irresponsible. The fact that five of the seven States originally covered and included under this oppressive section of the act have now passed the 50-percent requirement is completely overlooked.

It would seem to me that any new voting rights law that is passed should recognize the progress in voter participation occurring between the 1964 and 1968 presidential election. Here, again, is where the bill before us fails. Alabama had 343,000 more people voting in 1968 and yet it would give them no credit. Georgia had 97,000 more people voting in 1968 and they would be ignored. Louisiana had some 201,000 more people voting in 1968 and it would push them aside. Mississippi had some 245,000 additional persons participating and the bill says they should not be considered; South Carolina had 142,000 additional people casting ballots and they would not be given recognition. Virginia had 317,000 more electors participating and it would ignore them. North Carolina had an additional 162,000 electors participating and yet they would be treated as if they did not exist.

Second, the Voting Rights Act of 1964 requires that States covered by said act must submit every proposed change in their election process to the Attorney General or the Federal district court in Washington for prior approval. This is a particularly onerous burden because the 1970 census and recent Supreme Court rulings will probably require the passage of reapportionment and redistricting acts in all seven States. It would be difficult, if not impossible, to effect the required changes in district lines if the legislators must attempt to perform their duties while shuffling teams of attorneys back and forth to the Nation's Capital in order to make certain that it is permissible to use the left bank of a particular river instead of a certain section line in redefining the boundaries of one of their State's districts. I should

think that even the least advocate of States rights would prefer to take their chances in this regard with their own internal State processes instead of in the Federal district court in Washington, D.C.

Mr. Chairman, in my judgment, an extension of the 1965 Voting Rights Act would be unconstitutional.

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

Mr. ROGERS of Colorado. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. FLOWERS. Mr. Chairman, I am aware of the fact that the act has been upheld in the courts and the probability certainly exists for a similar stamp of approval for an extension. However, I do not believe that the Supreme Court alone is charged with the duty of interpreting the Constitution. Our oaths of office make it abundantly clear that Members of Congress should not vote for legislation which, in their judgment, is unconstitutional. The treating of any one State or any one region in a manner different from that of other States and other regions is not permitted under the Constitution; yet the passage of this bill will continue to single out and oppress one section of our Nation, the South, in a manner that is patently unconstitutional and discriminatory. Whatever happened to the rights of our States?

Mr. Chairman, in conclusion, I wish to make it clear once again that I feel deeply that this Congress should defend and protect the right of every qualified voter in the United States to cast his ballot freely for the candidates of his choice and have that ballot counted exactly as cast. However, this legislation is not so designed and cannot be so construed. Therefore, I urge the defeat of H.R. 4249.

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

Mr. FLOWERS. I yield to the gentleman from Illinois.

Mr. MIKVA. Would the gentleman show me where in the bill, where in the original act, any States are mentioned by name?

Mr. FLOWERS. They might as well have been mentioned by name because they are mentioned by percentages that are listed in the 1964 voter registration in each State as the gentleman well knows. It is public knowledge now as to which of our States are covered by the discriminatory sections 4 and 5 of the bill.

Mr. McCULLOCH. Mr. Chairman, I yield 10 minutes to the gentleman from Virginia (Mr. POFF).

Mr. POFF. Mr. Chairman, I support the substitute in the Committee of the Whole. If it loses in the Committee of the Whole I shall support the substitute in the motion to recommit. If it prevails in the motion to recommit, I will support the substitute on passage.

Mr. Chairman, I believe in the Constitution. I believe in all parts of the Constitution and that includes specifically and precisely the 15th amendment of the Constitution. It is a part of the supreme law of the land. The language is unequivocal and it means what it says.

What it says is that citizens will not be denied the right to vote and that right will not be abridged on account of race, color or previous condition of servitude.

Congress has decided that the appropriate legislation to enforce the 15th amendment was the Voting Rights Act of 1965. That is a fact. Moreover, the courts have decided that what Congress did was appropriate legislation, and that the Voting Rights Act of 1965 is constitutional. That is a fact. And it profits nothing to try to gainsay these facts.

So, really, what is involved in this debate Mr. Chairman, is if we agree that the Congress has the power and has exercised the power, and the exercise of the power has been approved by the courts—then is it wise for the Congress to continue to exercise its power in this manner for another 5 years?

In order to answer that question I suggest that it is important that we understand what is in the law which the committee bill proposes to extend.

Parenthetically, I think it should be made clear at the outset that the word "extension" is a malapropism, and does not quite fit the situation here. It is more accurate to say that on August 5, 1970, without further action by the Congress, the functional utility of two sections of the Voting Rights Act will come to an end, because at that point 5 years will have passed in which the States that were triggered under section 4 did not use a literacy test, and therefore upon petition to the court can escape coverage of section 5.

It is not quite accurate even to say that, because when the State which is covered today brings the lawsuit in August, as it is required under the present law to do, the act provides further that the court will retain jurisdiction of that suit for an additional 5 years. That means that upon motion of the Attorney General it is possible for the court to reopen the case without benefit of additional pleadings, except a motion by the Attorney General.

So it is fair to say that while a State now covered may escape coverage, it will remain under probation—it will not be able to change its voting laws and apply them in a discriminatory fashion, and the court would have the power promptly to disapprove the law which the State has passed.

I think it is critically important that we understand that.

What is in the act? The act contains 19 sections, 17 of which are permanent law and apply in every jurisdiction in all 50 States. Only two sections are not permanent. Those are sections 4 and 5.

Section 4 is the so-called automatic trigger section, which has already been explained, and I shall not consume time by repeating that.

Section 5 is the section which is triggered and spells out the consequences which flow from coverage under the trigger. The consequence is that the State covered by the trigger, a trigger which is mathematical, and which requires no determination of discrimination by the court or any other person, cannot change any part of its constitution or its statutory law that concerns elections without first getting the approval of the Attorney General or, in the alternative, the approval of the District Court of the District of Columbia.

This means that a State which is covered today cannot pass a redistricting statute following the 1970 census without the prior permission of the Attorney General of the United States or the District Court in the District of Columbia. These are the consequences of coverage under the automatic trigger.

Now, is it wise to extend such a law for an additional 5 years? I most earnestly submit that it is unwise. It is unwise to impose a legal presumption of guilt simply because a particular State has a lower voter turnout than a sister State.

I suggest that it is unwise to base such an absolute legal presumption upon election returns that are 5 years old. To do so simply ignores the dramatic progress that these States have made—even though under the lash of this law—and this amounts to a penalty rather than a reward for progress.

I think it is unwise to offer State sovereignty by requiring prior Federal approval of new State laws. The danger is not only in the area with which we are concerned today. If viewed as a precedent, it could be extended to other areas of law in the future.

Finally, I suggest it is unwise to regionalize this country, because whatever regionalizes this country divides this country.

Now I think it is proper to consider what is in the substitute to be offered by the distinguished minority leader. I shall not take the time to describe the contents definitively at this point. But I will try by summary to explain its essential components.

The substitute would make nationwide a temporary suspension, as distinguished from a permanent ban on literary tests.

It would make nationwide residence standards for voting in presidential elections in order to protect those who may move from one State to another.

Third, it would make nationwide the authority of the Attorney General to station both examiners and observers in any precinct in any jurisdiction in any State in the Union.

It would make nationwide the authority of the Attorney General to bring preventive injunction suits in any jurisdiction in any State upon the proper legal predicate.

Finally, it would establish a nationwide commission which would study the true impact of literacy tests upon minority voter participation and the impact of voter fraud.

Now, Mr. Chairman, I suggest that the vice of sections 4 and 5 in present law is not so much that it suspends literacy tests. The vice is that it is promiscuous in its application. It covers some States that are innocent and it fails to cover some States which are guilty.

If I may be permitted to cite as an ex-

ample my own State. Although Virginia is covered and presumed guilty, every report of the Civil Rights Commission has found Virginia innocent of voter discrimination in the period covered by this study. Since Virginia has been covered under the 1965 act, not a single Federal registrar has been sent into a single precinct, in a single election anywhere in the State of Virginia.

The same is true of Federal observers.

It is also interesting in that regard, I think, to understand that although Virginia has changed several of her voting laws since she has been covered under the act, none have been disapproved.

The CHAIRMAN. The time of the gentleman has expired.

Mr. McCULLOCH. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. POFF. So you might properly ask, Why does not Virginia simply bring a lawsuit and escape coverage?

Let me explain, and I consider this to be vitally important to a proper understanding of the effect of sections 4 and 5—and every lawyer understands it is almost impossible to marshal evidence necessary to establish a negative—and that is particularly true when that negative is "not guilty."

For Virginia to establish that negative, it would be necessary for her to assemble verbal or documentary evidence from 765 general and precinct registrars in over 2,000 precincts, and to show by that evidence that there has not been any substantial racial discrimination on account of race in voting in any election—State, Federal, national, general or primary, in any precinct in the State of Virginia.

I say that this is a physical and practical impossibility. That is why we cannot escape.

Now you might also ask, if Virginia is innocent, why should Virginia be under the coverage under the act for another 5 years? My colleagues, that is just a little difficult to articulate.

You know, it has been said by someone—I cannot recall who—that Virginia is not so much a State as a state of mind.

Virginians are proud—they are independent—and we are shamed by the status unfairly thrust upon us by a Federal law which presumes us to be guilty when all of the evidence is to the contrary.

Virginians take offense at the fact that we are not entrusted to amend our own constitution. It was in Virginia where the first democratic legislature in the New World convened. It was sons of Virginians who contributed so much to the deeds and the documents of independence and the Union.

It is, I say, painful that we are not permitted to change our own voting laws without the prior approval of a Federal official or a Federal court.

Mr. Chairman, my plea then is for Virginia. My plea is for her sister States. But in a larger and more meaningful sense, my plea is for the Nation. I think it is time that we laid aside the old shibboleths and subdued the old passions and understood the new realities, discard the old discrimination, and began again to live together as one nation—all under the same law.

Mr. CELLER. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. MIKVA).

Mr. MIKVA. Mr. Chairman, literacy tests are not the issue.

Residency is not the issue.

Regionalism is not the issue.

The question is whether enough black people have been registered and are now voting in those States that used to keep them from voting. Some say too many are voting and we ought to reverse the trend. Some are more tolerant and say, "No, we have just the right amount—but no more."

And what the substitute really does is put the Federal Government back where it was for 100 years in the voting business—playing the futile game of "chase the legislature." And that is like chasing the rabbit at the dog races. The purpose of the game is to chase—but never to catch. And a whole series of cases in the thirties and forties established the rules of the game beyond any peradventure—chase but never catch. One series of such cases were known as the Nixon cases.

And if the substitute is adopted, forget about literacy or residency—those are the biggest set of falsies ever put upon a civil rights bill. The game will be played thusly: Let us impose a filing fee of $1,000 for everybody who wants to run for a local city council. The Attorney General will then file a case and 5 years later action will strike it down. In the meantime, back at the statehouse, they will pass a new law changing the filing fee to $995 or if it is a progressive legislature, it will abandon that route and say instead that you need 25,000 signatures on a nominating petition—or that all petitions must be filed at the State capitol—or that some offices are abolished—or you name it.

I did not make this game up. It has been played for 100 years in this country. Those cases I referred to earlier proved that in every instance, the legislature can run faster than the Attorney General. By removing the plenary jurisdiction of the Attorney General to review all changes in the election laws of those States found to have discriminated by the then in vogue format of literacy tests, we set the rabbit free to outrun us again.

It has been said that the Attorney General will be required to again go after the States which do discriminate one by one. That is not accurate; he will go after them none by none.

Then there is a related game which the administration substitute asks us to play. It is called "let us study the problem a little longer." In this case I am not sure why it is necessary to establish a National Advisory Commission on Voting Rights, since the assumption underlying its alternative is that there are no voting problems anyway. But section 7 of the administration substitute does put us back in the study commission game. What makes this new game particularly confusing is that title VIII of the 1964 Civil Rights Act already authorizes a Commission to study voting registration and statistics. But this authorization has never been funded. In fact, this administration—which wants to play the "study the problem" game—did not even ask for appropriations this year to fund the voting study which has been authorized since 1964. So it might appear to some skeptical players of the "study the problem" game that this new proposal is not even a good faith invitation to play. Two authorizations are not the equivalent of one appropriation.

If this substitute is adopted, this will be known as the "Too Many Blacks Are Voting Act of 1969." That is the way it will be interpreted, because that is the way it is going to work.

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

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

Mr. WIGGINS. One of the significant features of the substitute is the right of the Attorney General to obtain injunctive relief. I am sure the gentleman is aware of that. If that right is used, and I would expect it to be used, this problem of chasing the legislature could be solved.

Mr. MIKVA. The point is that he has had the injunctive relief provision in the cases I am talking about. There was an injunction issued against the Texas registrar to keep him from enforcing that law.

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

Mr. CELLER. Mr. Chairman, I yield the gentleman an additional 5 minutes.

Mr. MIKVA. The difference, if I may pursue this with the gentleman from California, is that one cannot enjoin all conduct unless he wants to give that power which was given to the Attorney General in the 1965 act—plenary power to say that where the States fall within a certain category by the mathematics of the 1965 act; at that point, all the voting laws of an offending State will be subject to review by the Attorney General.

I would put it to the gentleman from California: Do you not trust the Attorney General?

Mr. WIGGINS. Yes; I do trust the Attorney General in his faithful enforcement of the law, including section 3 of the present law, which does give the court the power to review prospectively any changes in any State that might work to the discrimination of any voter.

I really think that the argument historically has been sound, but in practical effect the States, if they seek to make changes in their laws to discriminate against Negroes, have never yet come to the Attorney General to present their laws for his approval.

The Attorney General now must proceed on a case-by-case basis to test the laws.

Mr. MIKVA. I would respectfully disagree with the gentleman from California. We heard complaints, in fact, by the distinguished gentleman from Virginia and others, that in fact they cannot make the changes now.

I did not make up the rules of this

game. The cases I referred to earlier prove that in every instance the legislature can run faster than the Attorney General.

The substitute would put the Attorney General back in the bag of chasing such laws one by one in those cases where the courts must find as an affirmative fact that the State has in fact used the law to discriminate; most of the laws in the 1930's and 1940's had some degree of fairness on their face. It was the way the laws were being applied, or the peculiarities of their application, which made for an unfair voting procedure.

I say to you, it is not a case of putting the Attorney General back in the bag of catching them one by one; it is catching them none by none; because during the 20 or 30 or 40 years of attempted enforcement of the Constitution and the statutes of the United States to protect black people in their voting down South we did not register and vote a bag full of voters down South. The gentleman knows it.

In the 5 years since this bill has been passed hundreds of thousands of black people have been made eligible to vote and have voted.

I suggest, what is wrong with that?

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

Mr. MIKVA. I am glad to yield to the gentleman from Indiana.

Mr. DENNIS. The first thing I wanted to suggest to the gentleman was that a minute ago here in some of his illustrations he was referring to matters which came up in the State of Texas. I am sure the gentleman is well aware that the formula under sections 4 and 5 is so drawn that it does not apply to the State of Texas and would not affect that.

Mr. MIKVA. It does not apply to the State of Texas.

Mr. DENNIS. Is that correct?

Mr. MIKVA. That is correct.

I talked about the Nixon progeny because I was struck by the name and the fact that this one poor voter was caught for 10 years in the toils of that legislature and never did get the right to vote.

Mr. DENNIS. To pass from that, will the gentleman yield further?

Mr. MIKVA. I yield for a question.

Mr. DENNIS. The gentleman, I know, is aware that all we are talking about is extending sections 4 and 5 of the 1965 act. The rest of the sections remain in force. The gentleman is also aware, of course, that under section 3 in any court proceeding brought by the Attorney General of the United States the court as a part of its judgment may suspend literacy tests and, retaining jurisdiction, the court, again, may require this prior approval of new laws. Is that right?

Mr. MIKVA. May I say to the gentleman from Indiana, if you want to suggest that somehow we have acquired a new wisdom which we did not have for the last 50 years, I disagree. The courts can do something they have always had the power to do, and the Attorney General has always had the power to do—but when you go on the ad hoc basis, one by one, you cannot keep up with the game.

I decline to yield further at this time.

The substitute also has another gamesmanship feature in it. There is not any problem, but the substitute says "We ought to study the 'no problem.'"

Now, I find that fascinating because you know what? Since 1964, as I recall, we have had a commission which was supposed to study the voting rights and laws of the various parts of the country.

Title VIII of the 1964 Civil Rights Act specifically authorized the Commission to study voting rights but you know what? We never funded that Commission, and the current budget does not fund that Commission. So, we have another kind of game now going on with reference to the funding of the Commission, which represents a new way of playing the appropriations game.

But, Mr. Chairman, we are not going to make any progress by studying the problem because about 100 years of Supreme Court literature shows that the offenders will avoid facing up to the situation until the Attorney General forces them to correct it.

Mr. McCULLOCH. Mr. Chairman, I yield 6 minutes to the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. First, Mr. Chairman, I want to say quite frankly that I do not impugn the motives of those who are sponsoring and supporting the substitute bill, I do not impute to the administration or to my leader any aim or desire to accomplish any retrogression or other dire effects which might flow from the legislation which he is proposing.

However, I want to comment upon the inadequacy and ineffectiveness of the proposed substitute bill and I want to urge strongly that the Members of this body—primarily I am addressing myself to members of my party on this side of the aisle—give strong support to the extension of this law as you did in 1965 to the original enactment of this law.

Mr. Chairman, my primary interest in the Voting Rights Act is to help assure equal voting rights for all citizens of our Nation without discrimination because of race or color. The 1965 Voting Rights Act—which passed the House of Representatives by the overwhelming margin of 328 to 74, and in the other body, by a margin of 79 to 18—reflected then the purpose and determination of the Congress to end the discrimination against voters solely on the basis of their race or color.

There is no question but that the provisions to summarily strike down the literacy tests and all other local and State laws which might be interpreted as tests or devices for discrimination—was both a harsh and a courageous step for the Congress to take. The 1965 act did not name any specific States, but by establishing a measure or standard for determining discrimination, the act became applicable to only six Southern States—namely, Alabama, Georgia, Louisiana, Mississippi, South Carolina, Virginia, and 26 counties in North Carolina.

Of course, the arguments that were made to this legislation when enacted in 1965 may be presented again at this time and they seem to be the same arguments directed against this simple extension of the law. Perhaps those arguments will seem more persuasive now because of the progress in increased Negro registrations in the areas affected by the 1965 law. I am generally satisfied with the benefits which have been derived under the 1965 act. Indeed, I think it was too much to hope that the registering and voting by Negroes would equal that of whites at the end of the 5-year period—August 1970.

It is my understanding that, when originally proposed, the Voting Rights Act contemplated a 10-year life, and the 5-year term was a compromise.

I have gone over the testimony in the other body and the testimony there was with reference to a 10-year period. The only reason that period of time was reduced from 10 years to 5 years was in order to bring about in the other body a favorable vote on the subject of cloture and there was no objection which indicated that the objectives of the Act would be fulfilled at the end of the 5-year period.

There was no consideration given to the point that the 5-year period was adequate or that the 10-year period was too long, but solely that reduction of the period in which the bill would be effective would enable the sponsors to secure a cloture vote and consequently a consideration of the Voting Rights Act at the 1965 session.

It seems to me that this militates strongly against abandoning the existing Voting Rights Act at this time and substituting an untried and clearly less effective tool in its place.

Let us recognize—as the Attorney General himself has recognized—that substantial progress has occurred under the 1965 law. Indeed, in recent months the validity of the 1965 act appears to have had a particular impact. Consider section 5 of the present law which requires that in those States and counties where literacy tests and other practices are nullified, all statutes and ordinances are required to be submitted by the chief legal officer of the State in question to the Attorney General with the proviso that if the Attorney General shall interpose an objection within 60 days, the State or local requirement shall not be effective unless a declaratory judgment in the district court in the District of Columbia shall first be obtained—section 5.

With regard to this part of the bill, it is noted in the hearings that up to June 30, 1969, 313 such enactments have been submitted to the Attorney General, 283 resulted in no objection whatever. However, of the 10 enactments to which objections have been filed, six of the objected to changes have occurred this year. Also there were 32 such enactments pending at the time this summary was made, page 308 of the hearings.

In other words, the measure which we are seeking here to extend has immediate and current application. The requirements of the law are needed now and in the immediate future. For how long I do not know, I cannot say with certainty. However, I am satisfied to rely on the original judgment expressed at the time the Voting Rights Act was passed in 1965,

and I will say with all candor that if the progress at the end of an additional 5 years is as good as the progress we have made during the original 4 years, I see no reason whatsoever why the statute should not be permitted then to expire, but not now.

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

Mr. McCLORY. I yield to the gentleman from Maryland.

Mr. GUDE. Mr. Chairman, I thank the gentleman for yielding, and I want to commend the gentleman for the statement he has made. I support the extension of the Voting Rights Act of 1965, without amendments. I would like first to commend the fine work of the Judiciary Committee and especially the leadership of its distinguished ranking Republican member, the gentleman from Ohio (Mr. McCULLOCH), the gentle knight in the battle for human rights. Judge Higanbotham, a member of the Eisenhower Commission on Violence, recently praised Mr. McCULLOCH'S deeds as "great profiles in courage to all men interested in equal justice under law." I could not agree more. No Member of Congress has a better grasp of the legal and human problems of civil rights enforcement, and no Republican better embodies the historic commitment of the Republican Party to protecting the human rights of all.

My position on the extension of the act may be stated in a sentence: The act is working, but the job is not done. Sections 4 and 5, which provide special remedies for the denial of voting rights in certain States, seem to me to have the considerable merit of commonsense. It is not unreasonable discrimination to provide special solutions for special problems. Great progress in the area of voting rights has been made, to be sure, but there has not been enough to refute the continued need for a regional remedy. The real issue in the Voting Rights Act is first-class citizenship, not second-class States.

And so I conclude with Mr. McCULLOCH, that we should not "tamper with success." Let us not clutter up good legislation with amendments that are either ill-considered or downright superfluous distractions from the real task at hand.

Mr. CELLER. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. RYAN).

Mr. RYAN. Mr. Chairman, the right to vote is fundamental to our democracy. Yet for almost 100 years after the adoption of the 15th amendment, which provided that the right to vote should not be denied or abridged on account of race, color, or previous condition of servitude, millions of black American citizens were denied that previous right. Finally, in 1965 after the conscience of the Nation had been aroused by violence, brutality and murder perpetrated upon those who sought to register and vote, or to help others to do so, the Voting Rights Act of 1965 was enacted.

Previous legislative attempts in 1957 and again in 1960 to protect the right to vote had failed to end racial discrimination in the electoral process in the Southern States because in the earlier legislation it depended upon case-by-case litigation, which was costly, time consuming and produced insignificant results.

Selma dramatized not only the extent of the deprivation of the right to vote but the unconscionable methods used to disenfranchise Negroes in the South.

In 1965 the Congress overwhelmingly adopted the Voting Rights Act. The House passed the bill by a 328-to-74 vote; the Senate by a 79-to-18 margin.

H.R. 4249 extends the key remedies of the act for an additional 5 years beyond August 1970 at which time States subject to its coverage would otherwise be able to obtain exemption. It is similar to H.R. 7510, which I introduced.

The Voting Rights Act of 1965 provided three essential remedies for enforcing the right to vote in jurisdictions covered by the statutory formula. States or political subdivisions in which fewer than 50 percent of the voting-age population were registered for or voted in the 1964 presidential election.

First, the suspension of literacy tests and devices.

Second the appointment of Federal examiners and observers. The act gave the Attorney General the power to certify to the Civil Service Commission for the appointment of Federal examiners and observers in those jurisdictions covered in order to insure full voter participation. The duty of examiners is to prepare lists of qualified voter applicants. The observers have the task of monitoring the casting and the counting of ballots.

Third, the prohibition against the enforcement of new voting rules or practices without Federal review to determine whether their use would perpetuate voting discrimination. Section 5 of the act requires either that a determination be made by the U.S. District Court for the District of Columbia that the new rules or procedures are not racially discriminatory in purpose or effect or, that the new proposals have been submitted to the Attorney General and not objected to, by him, within 60 days.

As the 1968 report of the U.S. Commission on Civil Rights, entitled "Political Participation," and reports gathered by the Southern Regional Council show, substantial progress has been made as a result of the 1965 legislation. Six States are covered in full by the Voting Rights Act—Alabama, Georgia, Louisiana, Mississippi, South Carolina, and Virginia. And 39 counties in North Carolina are covered.

During the period between August 1965 and the summer of 1968, registration of black voters in these six States increased from 856,000 in 1965 to 1,596,000. These figures in themselves demonstrate the progress which has been made under the provisions of the Voting Rights Act.

As has been pointed out in the testimony of the U.S. Civil Rights Commission, not all of this increase can be attributed to the Voting Rights Act alone. Extensive voter registration drives by civil rights groups and other citizens' organizations have significantly aided in the achievement of this increase. Nevertheless, it is clear that the efforts of these groups and the resulting increase in black registration would not have been possible without the protection and provisions of the 1965 legislation.

Before the Voting Rights Act was adopted, only 31 percent of the voting-age blacks in the 13 States of the old Confederacy were registered to vote. As of the summer of 1968, 62 percent were registered.

A significant disparity still remains between white and black political participation.

According to figures compiled by the voter registration project of the Southern Regional Council, while 62 percent of voting-age blacks are now registered to vote in these 13 States, 78 percent of the white voting-age population is registered, a difference of 16 percent. In the six States directly covered by the 1965 act, only 57 percent of the black voting-age population is registered, as opposed to 79 percent of the white voting-age population, a difference of 22 percent.

The following is a breakdown of the increases in the six States, which are fully covered, and also North Carolina:

In Alabama, before the passage of the act, 69.2 percent of the eligible white voters were registered, but only 19.3 percent of the eligible black voters were registered. In 1969, white registration rose to 94.6 percent; black registration to 61.3 percent.

In Georgia, 62.6 percent of the eligible white voters were registered before the act; 27.4 percent of the black eligibles were registered. This figure increased to 88.5 percent for whites and 60.4 percent for blacks in 1969.

Louisiana's white registration of eligible voters, before the act's passage, was 80.5 percent, the black registration was 31.6 percent. In 1969, white registration rose to 87.1 percent; black registration to 60.8 percent.

In Mississippi, before the act, white registration was 69.9 percent of the eligible voters, while black registration was 6.7 percent. In 1969, white registration increased to 89.8 percent; black registration to 66.5 percent.

In North Carolina, white registration before passage of the act was 96.8 percent of those eligible to vote; the black registration was 46.8 percent. In 1969, white registration was 78.4 percent; black was 53.7 percent.

In South Carolina, before the passage of the act, 75.7 percent of the whites eligible to vote were registered; 37.3 percent of the blacks were registered. In 1969, white registration was 71.5 percent; black registration was 54.6 percent.

And in Virginia, before the act, 61.1 percent of the white eligibles and 38.3 percent of the black eligibles were registered to vote. By 1969, white voter registration was 78.7 percent; black registration was 59.8 percent.

I include at this point in the RECORD tables showing the statistics on the registration of black and white voters before and after the 1965 act:

TABLE I

| State | Negro voter population[1] | Negro Preact registration | Percent registered | Fall 1969 Negro registration | Percent registered |
|---|---|---|---|---|---|
| Alabama | 481, 220 | 92, 737 | 19. 3 | 295, 000 | 61. 3 |
| Arkansas | 192, 629 | 77, 714 | 40. 4 | 150, 000 | 77. 9 |
| Florida | 470, 261 | 240, 616 | 51. 2 | 315, 000 | 67. 0 |
| Georgia | 612, 875 | 167, 663 | 27. 4 | 370. 000 | 60. 4 |
| Louisiana | 514, 589 | 164, 601 | 31. 6 | 313, 000 | 60. 8 |
| Mississippi | 422, 273 | 28, 500 | 6. 7 | 281, 000 | 66. 5 |
| North Carolina | 550, 929 | 258, 000 | 46. 8 | 296, 000 | 53. 7 |
| South Carolina | 371, 104 | 138, 544 | 37. 3 | 203, 000 | 54. 6 |
| Tennessee | 313, 873 | 218, 000 | 69. 5 | 289, 000 | 92. 1 |
| Texas | 649, 512 | | | 475, 000 | 73. 1 |
| Virginia | 436, 718 | 144, 259 | 38. 3 | 261, 000 | 59. 8 |
| Total | 5, 015, 933 | 1, 530, 634 | 35. 5 | 3, 248, 000 | 64. 8 |

[1] Source of population data is the 1960 census.

Source of preact figures—U.S. Commission on Civil Rights, Political Participation, Washington, D.C., May 1968.

Source of 1969 figures—Voter Education Project, Southern Regional Council, Atlanta, Ga., December 1969.

TABLE II

| State | White voter population[1] | White preact registration | Percent registered | Fall 1969 white registration | Percent registered |
|---|---|---|---|---|---|
| Alabama | 1, 353, 122 | 935, 695 | 69. 2 | 1, 280, 000 | 94. 6 |
| Arkansas | 848, 393 | 555, 944 | 65. 5 | 694, 000 | 81. 6 |
| Florida | 2, 617, 438 | 1, 958, 499 | 74. 8 | 2, 465, 000 | 94. 2 |
| Georgia | 1, 796, 963 | 1, 124, 415 | 62. 6 | 1, 590, 000 | 88. 5 |
| Louisiana | 1, 289, 216 | 1, 037, 184 | 80. 5 | 1, 123, 000 | 87. 1 |
| Mississippi | 751, 266 | 525, 000 | 69. 9 | 672, 000 | 89. 8 |
| North Carolina | 2, 005, 955 | 1, 942, 000 | 96. 8 | 1, 572, 000 | 78. 4 |
| South Carolina | 895, 147 | 677, 914 | 75. 7 | 640, 000 | 71. 5 |
| Tennessee | 1, 779, 018 | 1, 297, 000 | 72. 9 | 1, 637, 000 | 92. 0 |
| Texas | 4, 884, 765 | | | 3, 020, 000 | 61. 8 |
| Virginia | 1, 876, 167 | 1, 070, 168 | 61. 1 | 1, 476, 000 | 78. 7 |
| Total | 20, 097, 450 | 11, 123, 816 | 73. 4 | 16, 169, 000 | 80. 4 |

[1] Source of population data is the 1960 census.

Note: Source of preact figures—U.S. Commission on Civil Rights, Political Participation, Washington, D.C., GPO CR1.2:P75/3, May 1968.

Source of 1969 figures—Voter Education Project, Southern Regional Council, Atlanta, Ga., December 1969.

As the statistics indicate, much remains to be done before the barriers of 100 years are completely eliminated and all citizens are free to participate in the political process on an equal basis.

Another measure of the progress attained under the Voting Rights Act is the increase in black elected officials in the South. Before 1965, there were approximately 78 elected black public officials in the South. Today there are 528. However, much remains to be done in this area also. While 19 black legislators now have been elected in the legislatures of the covered States, no black legislator has yet been elected in Alabama or South Carolina, and only two have been elected in Virginia and one has been elected in Louisiana, Mississippi, North Carolina, respectively.

I include at this point in the RECORD a table prepared by the Southern Regional Council showing black elected officials in the Southern States:

BLACK ELECTED OFFICIALS IN THE SOUTHERN STATES

| | Alabama | Arkansas | Florida | Georgia | Louisiana | Mississippi | North Carolina | South Carolina | Tennessee | Texas | Virginia | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Legislators: | | | | | | | | | | | | |
| State Senate | | | | 2 | | | | | 2 | 1 | | 5 |
| State House | | | 1 | 12 | 1 | 1 | 1 | | 6 | 2 | 2 | 26 |
| Total | | | | | | | | | | | | 31 |
| City officials: | | | | | | | | | | | | |
| Mayor | 4 | 4 | 1 | | 3 | 3 | 2 | 2 | | | | 19 |
| City council-vice mayor | 37 | 9 | 28 | 15 | 19 | 30 | 43 | 22 | 8 | 10 | 18 | 239 |
| Civil Service Board | | | 1 | | | | | | | | | 1 |
| Total | | | | | | | | | | | | 259 |
| County Officials: | | | | | | | | | | | | |
| County governing board | 6 | | 1 | 5 | 10 | 4 | 1 | 4 | 6 | | 2 | 39 |
| County administration | 2 | | | 1 | | 1 | | | | | | 4 |
| Election commission | | | | | | 15 | | | | | | 15 |
| Total | | | | | | | | | | | | 58 |
| Law enforcement officials: | | | | | | | | | | | | |
| Judge, District Court | | | | | | | 1 | | 1 | | | 2 |
| Sheriff | 1 | | | | | | | | | | | 1 |
| Coroner | 1 | | | | | 2 | | | | | | 3 |
| Town marshal | | | 1 | | 4 | 1 | | | | | | 6 |
| Magistrate | | | | | | | | 4 | | | | 4 |
| Constable | 6 | | 1 | | 9 | 6 | | | 3 | | | 25 |
| Justice of the peace | 19 | 4 | | | 9 | 9 | | | 1 | | 6 | 48 |
| Total | | | | | | | | | | | | 89 |
| School Board Officials: School Board Members | 7 | 37 | 1 | 7 | 9 | 6 | 10 | 2 | 3 | 9 | | 91 |
| Total | 83 | 54 | 35 | 42 | 64 | 78 | 58 | 34 | 30 | 22 | 28 | 528 |

Source: Voter Education Project, Southern Regional Council.

An additional factor to be noted is that most of the black public officials elected in the South are concentrated in small communities, where the majority of the population is black. In Mississippi, for example, only two black public officials have been elected in communities where blacks constitute a minority of the population, and in those communities the black population in 1960 was over 40 percent.

Beyond the work which needs to be done to bring black voter registration into conformity with white registration and to enable black citizens to share political power in communities where they do not constitute an absolute majority, there are other obstacles to the securing of equal voting rights which must be rooted out and eliminated. Intimidation of potential black voters, while perhaps less drastic than it was 4 years ago, remains an all too common barrier to full political participation by blacks. The Southern Regional Council, which has sponsored over 100 voter registration drives in several areas of the South, has received numerous reports that Negroes still fear economic reprisal if they register to vote, including being fired, evicted from their homes, or removed from the welfare rolls.

There is also the threat of physical retaliation as well as other coercive tactics used to discourage registration.

Reports filed with the voter education project also tell of irregular election maneuvering in several counties covered by the Voting Rights Act, including registrars maintaining short or irregular hours, or arbitrarily closing their offices without notice. Other reports tell of various sorts of chicanery being used to keep Negroes from voting, and of Negroes being treated contemptuously by local white registrars.

Although many of these incidents are less dramatic than the mass arrests and blatant disregard of rights which created headlines a few years ago, nonetheless they reveal that the struggle for equal rights is far from won. Much has been done to erase long standing obstacles to full political participation by black voters

in the political process; but much remains to be done before the last vestiges of discrimination and inequality will be rooted out.

Although I believe that the Attorney General should have used his power to cause the appointment of Federal examiners more often than he has, nevertheless Federal examiners have been effective where they have been assigned.

According to the Civil Rights Commission:

As of March 1, 1969, examiners had been sent to 58 counties in five Southern States. Examiners in these counties had listed to vote a total of 167,364 persons, including 157, 567 nonwhites and 9,797 whites. (Hearings before Subcommittee No. 5 of the Committee on the Judiciary on H.R. 4249, H.R. 5538 and H.R. 7510).

Greater and more effective use should be made of Federal examiners and observers. While 740,000 Negroes had been registered as of the summer of 1968, only 158,000 of these were registered by Federal examiners.

Federal observers had been appointed to monitor elections in five states, as of December 1968: Alabama, Georgia, Louisiana, Mississippi, and South Carolina.

In Alabama, five elections have been covered by Federal observers. In Georgia, two elections have been monitored by Federal observers. In Louisiana, the number of elections to which Federal observers have been appointed are nine. In Mississippi, 10 elections have been covered by Federal observers. And in South Carolina, five elections have been covered by Federal observers.

The numerous incidents of local harassment of blacks attempting to register and discrimination against black poll watchers documented in the "Political Participation" report of the Commission on Civil Rights clearly points out the continued need for Federal examiners and observers. As long as fear and memories of past discrimination make black citizens reluctant to register with local officials, the presence of Federal officials will be required. As long as local officials continue to harass and intimidate potential black voters, it will be necessary for the Federal Government to insure that all citizens—regardless of race—have an equal opportunity to participate in the political process.

If the Voting Rights Act of 1965 is not extended, the covered States will be able to escape after August 1970. They will be freed from the three key provisions of the act which have made possible the dramatic increase in black registration—the suspension of tests and devices, the appointment of Federal examiners and observers, and Federal approval of any changes in election laws.

If section 4 of the Voting Rights Act is allowed to expire, a State could resume the use of literacy tests and other devices. None of the States covered by the act has repealed its literacy test.

If section 4 is allowed to expire, Federal examiners and observers could not be sent into a State by direction of the Attorney General.

If section 5 is allowed to expire, a State would not be required to obtain the approval of the U.S. district court, or the acquiescence of the Attorney General before putting into effect changes in voting laws or precedures.

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

Mr. RYAN. I yield to the gentleman from Indiana.

Mr. DENNIS. That is a point which gives me concern. Like the gentleman from New York, I come from a State where we have no problems about voting and color and race is irrelevant, and I certainly subscribe to that doctrine, as the gentleman from New York does.

The question is as to the method of approach—whether we use the triggering procedure of sections 4 and 5 or whether we use the more normal procedure of having the Government go into court and prove a case of discrimination.

Now on this point, where a State has to go, ahead of time before there is any complaint at all, and get the Federal Government to approve a law—as a lawyer, and I know the gentleman is a good lawyer—that troubles me.

I wonder what the gentleman's comment would be on this statement that Mr. Justice Black made in his opinion in the case where this act was before the Court.

Justice Black said:

Certainly if all the provisions of our Constitution which limit the power of the Federal Government and reserve other power to the States are to mean anything, they mean at least that the States have power to pass laws and amend their constitutions without first sending their officials hundreds of miles away to beg Federal authorities to approve them * * *. I cannot help but believe that the inevitable effect of any such law which forces any one of the States to entreat Federal authorities in faraway places for approval of local laws before they can become effective is to create the impression that the State or States treated in this way are little more than conquered provinces. And if one law concerning voting can make the States plead for this approval by a distant Federal court or the U.S. Attorney General, other laws on different subjects can force the States to seek the advance approval not only of the Attorney General but of the President himself or any other chosen members of his staff.

I will say to the gentleman that I am concerned about this not only in this field of voting rights, but as to what is going to be done in cases, perhaps under the 14th amendment, as to the powers of our States—your State and mine—in various fields—to pass legislation without prior Federal approval.

I would like to hear the gentleman comment on that.

Mr. RYAN. I believed that section 5 was constitutional when it was adopted by this Congress; and it has been held constitutional in South Carolina against Katzenbach, the case from which the gentleman quoted the words of Mr. Justice Black.

Mr. Dennis. That is not my question. I know that the 1965 act has been held constitutional. But what about the philosophy of it?

Mr. RYAN. Let me finish—it was adopted by this Congress in order to meet a very specific problem and that was the fact that the States of the South which sought to disenfranchise black voters had resorted continually to all kinds of ingenious devices to prevent people from registering and voting, to dilute their vote, if they were permitted to vote, and to prevent black candidates.

It was essential for the Congress to act—and the Congress did act. I believe that section 5 should be continued.

Mr. DENNIS. What the gentleman is saying, in effect, is that he feels the situation was so bad that even if the remedy may be bad, that we should do this.

Mr. RYAN. I do not agree that it is a bad remedy. I believe it is an appropriate remedy, which has been effective, and it should be continued.

If the Voting Rights Act of 1965, as presently written, is allowed to expire, the evidence is convincing that State legislatures will change or consolidate districts, dilute the strength of the black vote, abolish offices, and use other methods to prevent black candidates from running for office. That is going to happen just as sure as I am standing here.

Mr. DENNIS. Does the gentleman have any concern at all about the potentials of this as a precedent, in other than the field of voting rights, as to the rights of the States to legislate without coming down here to get permission to do so?

Mr. RYAN. Throughout the history of the civil rights struggle, the States rights argument has been used as the rationale to forestall effective Federal action—both legislative and executive. What should be of concern is the enforcement of constitutional guarantees and the protection of human rights. Section 5 was designed to prevent States from adopting new voting procedures for the purpose of denying the vote. Without this requirement of advance Federal review, a voter could be deprived of his vote without a remedy, for after an election it would be of little avail to obtain a court decision in his favor. Time is of the essence in voting rights, and that factor, among others, justifies the requirement.

Under the 15th amendment Congress has the power to enact appropriate legislation. That is what we should continue to do.

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

Mr. RYAN. I yield to the gentleman.

Mr. SCHEUER. Mr. Chairman, I would like to ask the gentleman from Indiana who was just asking some questions of the gentleman from New York (Mr. RYAN) about States rights—whether he was concerned by the intervention of the Federal Government into areas normally controlled by the States when the Congress passed the flag bill—and when Congress passed the bill mandating the colleges and universities to deal punitively with students who were involved in demonstrations. Did the gentleman from Indiana exhibit any heartfelt concern about the invasion of States rights then on those two occasions?

Mr. DENNIS. May I state for the gentleman's information that the gentleman from Indiana always has a heartfelt interest when it comes to States rights, although I do not recall that I took the floor on those occasions.

Mr. SCHEUER. I thank my colleague.

Mr. RYAN. I was pointing out the possible consequences if the act is not extended.

A State which escapes from the act would be able to require the re-registration of all voters, disenfrancising the thousands of black voters who secured the right to vote under the Voting Rights Act of 1965. The painful process of registration would have to be repeated in the face of renewed threats of economic or even physical retaliation and without the presence of Federal examiners. Black political participation could well return to its former low levels.

To be sure there would be court challenges. But a return to the former case-by-case method would be intolerable. Elections would come and go during the course of litigation.

Without section 5 of the 1965 act which requires Federal approval of any change in voting qualifications, standards, practices, or procedures different from those in effect on November 1, 1964, there is little doubt that the States and localities would resort to various ways to dilute the black vote and to defeat black candidates. The U.S. Commission on Civil Rights has documented a number of changes already attempted.

One example is switching from district elections to at-large elections. By doing this, districts which contain a high density of black voters are combined with white districts which can numerically out poll them. This device has been used for local elections in Alabama and Mississippi.

Another manner used to dilute the black vote is the consolidation of counties which have black voting majorities with counties which have white voting majorities. Mississippi also made use of this method, through the introduction and passage of an amendment permitting the legislature by a two-thirds vote to consolidate adjoining counties. Previously, this could only be done if a majority of voters within the counties to be consolidated approved.

Reapportionment and redistricting measures have been another method for diluting the black vote in the South. This device has been used in the past by both Alabama and Mississippi.

In addition, the full slate voting requirement has caused a weakening of black vote. This requires a voter to cast a vote for each position to be filled. If the voter does not vote the full slate, his ballot is void. Thus, the black voter may have to vote for a white candidate in order for his vote for a black candidate to count or his ballot will be void. Either way, his vote is diluted.

A variety of discriminatory tactics have been used to harass and obstruct black voters—refusal to assist or permit assistance to illiterate voters, giving inadequate or erroneous instructions, disqualification of black ballots on technical grounds, denial of equal rights to vote absentee, discriminatory location of voting places, and segregated voting facilities and voter lists.

In Mississippi, Alabama, Georgia, Louisiana, and South Carolina the names of black registrants were either excluded from the official voter lists or they were listed with incorrect party designations.

Then there are the methods used to prevent blacks from either becoming candidates or obtaining office.

One very simple way is to abolish the office. On several occasions, the office of justice of the peace has been "reevaluated" when a black candidate has filed for the office, and the decision has been that the office is no longer necessary.

Another way to keep blacks from being elected to public office has been to extend the terms of incumbent white officials. Such an extension of terms was made in Bullock County, Ala., 2 weeks before the passage of the Voting Rights Act. The law has since been declared unconstitutional by a Federal court.

Substituting appointment for election is another method used to prevent the election of blacks. This device has been primarily used to keep in office superintendents of education in counties in Mississippi.

In Alabama an increase in filing fees has been used to preclude blacks from running for office. For example, the fee for sheriff was raised from $50 to $500; for member of the board of education from $10 to $100.

In Lowndes County, Ala., where 80 percent of the population is black, and the per capita income is $507 a year—it is virtually impossible for any black to run for either office.

Still another method is not to provide adequate polling facilities, such as in Louisiana, where in 1966 a candidate for alderman was defeated because one polling place was provided in the precinct with a black majority.

The State of Mississippi had added requirements to the qualifications for candidates in order to prevent blacks from running for office, including increased signatures for nominating petitions, a requirement that each elector personally sign the petition and include his polling place and county, a requirement that independent candidates file their petitions on the day before or the day of the primary, and the disqualification of anyone who has voted in a primary election from running as an independent in the general election.

In several Southern States, including Alabama, Arkansas, Georgia, and Mississippi, blacks have been prevented from running for public office because public and party officials have either failed or refused to provide them with pertinent information about the offices and elections involved.

In Mississippi, another method used to prevent prospective black candidacies or to harass prospective candidates has been to withhold or delay the necessary certification of the nominating petition.

And if all else fails and a black candidate is elected, there is always the last ditch effort of imposing barriers to his assuming office. In Mississippi, this has been achieved because of the difficulty black electees had in obtaining the bonds necessary to cover any losses they might incur.

It should be obvious that the white power structure does not intend willingly to relinquish its control. If the Voting Rights Act is permitted to expire, the Federal Government will no longer have the authority to help make the 15th amendment a reality for millions of black Americans.

The experience of the past 4 years under the Voting Rights Act has shown the voting potential which existed in the South, but which had been untapped because of 100 years of discrimination.

If our Nation had lived up to the Constitution and the 15th amendment, if human rights had been placed ahead of States rights, then the act of 1965 would have been unnecessary.

But it was necessary, and it has been effective. It must not be permitted to lapse, for it protects the precious right to vote without which "other rights, even the most basic, are illusory," as the U.S. Supreme Court stated in Wesberry against Sanders.

The CHAIRMAN. The time of the gentleman has expired.

Mr. McCULLOCH. Mr. Chairman, I yield to the gentleman from Virginia (Mr. BROYHILL) for whatever time it requires to make a unanimous consent request.

Mr. BROYHILL of Virginia. Mr. Chairman, I rise in opposition to H.R. 4249, to continue in full force and effect the provisions of the so-called Voting Rights Act of 1965. That act is a perfect example of a practice we have seen all too frequently during the last decade, of attaching a glorifying name to a bad bill to disguise its true purpose.

The purpose of the Voting Rights Act of 1965, and of the bill to extend it today, quite simply is to force Federal registrars upon Southern States, including my own State of Virginia. It arbitrarily assumes that racial discrimination exists and suspends tests and devices as conditions for voter registration in States or counties where fewer than 50 percent of persons of voting age are registered or have voted, then assigns Federal examiners to supervise the registration of voters and the conduct of elections in those States.

Article I, section 2, of the Constitution, and the 17th amendment, vest in the States the right to establish the qualifications of voters. The 15th amendment requires that whatever standards are established be not racially discriminatory and that such standards be uniformly applied. Thus, while Congress has authority to enforce the 15th amendment by appropriate legislation, it has no authority to do so by denying certain States their right to set qualifications and permitting others to do so. It cannot be proper to enforce one right guaranteed by the Constitution by taking away from a select group of States another right also guaranteed.

The indicators of racial discrimination in the 1965 act which were used to trigger the suspension of tests and other voting requirements and open the way for appointment of Federal examiners, were that fewer than 50 percent of age-eligible persons were registered or voted in 1964. They did not by any means constitute conclusive evidence of discrimination. Fewer than 50 percent of age-eligible persons vote in Virginia, but the U.S. Commission on Civil Rights has

reported that there is no evidence of racial discrimination in Virginia's voting process. Further, in the absence of any complaints, not a single Federal registrar has been sent into a precinct, county, or city of Virginia, nor have Federal observers been dispatched to oversee our elections. Yet, under provisions of the act my State stands year after year under threat that the provisions of the act may be invoked, and in such event we would be forced to seek a judgment in the Federal District Court for the District of Columbia to prove that any tests or devices utilized as requirements for voting eligibility have not been used as a means of racial discrimination during the previous 5 years. This means that our States are presumed guilty, on the basis of arbitrary criteria, until they prove themselves innocent, in contradiction of a fundamental principle of justice. Further, by requiring these few States to seek approval of the Federal District Court for the District of Columbia before making any change in qualifications or procedures for voting we not only deny them the right to set qualifications but also violate the principle of separation of the legislative and judicial powers.

Finally, the 1965 act is most remarkable for the many kinds of voting fraud and abuse it ignores throughout the Nation in a determined effort to penalize a small section for imagined discrimination. I would be the first to support election reform which would guarantee that every would-be voter can cast his vote without fear or intimidation; and which would also guarantee that his vote would not be diluted by fraudulent votes cast by others. We do need guarantees against election fraud. We need stronger and more consistent prosecution of those who perpetrate fraud when they are discovered. But the 1965 act does not carry these guarantees, and we only attempt to fool the American people if we pretend we provide these guarantees by passing a 5-year extension of an unfair and discriminatory measure. Mr. Speaker, I urge defeat of this legislation unless it is amended by the substitute, H.R. 12695, which will be offered later today.

If it is fitting and proper to abolish literacy tests as a qualification in six or seven States of this Union, then why is it not fitting and proper to abolish these tests in all 50 States?

I do not think literacy tests are bad. On the contrary I think literacy tests are essential to help assure an informed and responsible electorate. But if we are to impose any law on any State, on any subject, we must make certain that such law is equally applicable to all States and all citizens. How can we abolish one form of alleged discrimination by enacting a new law which is even more discriminatory?

Mr. Chairman, my State of Virginia is in the process of updating and improving our voting laws. We are planning to do this by two approaches. One would require an amendment to our State constitution which must be approved by two sessions of the State legislature and then by the voters of the State. The other approach would simply require the approval of one session of the legislature and the Governor similar to any other change in State law.

The irony of this, Mr. Chairman, is that after all this planning and work has been completed we will have to come to Washington, hat in hand, and ask the U.S. Attorney General or the Federal courts for their approval. How degrading can we get? Are not the people of Virginia capable of determining for themselves how they want their voting laws changed?

In order to show the Members of the House how ridiculous this can be, I should like to list what we have proposed as changes in the voting laws of the State of Virginia and the status of the situation under both methods.

First the list of proposed changes which would require a constitutional amendment:

A. Reduce residency requirement for all elections from one year to six months.

B. Remove all reference to requirement that capitation tax be paid—although voided by court the language is still in Va. constitution.

C. Provide that a person who does not vote once within four calendar years shall be *automatically* purged from registration books.

D. Gives legislature right to further reduce by law at a later date the residence requirement for Presidential elections.

E. Requires a person to have both a legal residence and a domiciliary residence in order to vote by absentee ballot from out of state.

The list of changes proposed by the Legislative Advisory Committee of our State legislature which requires only the approval of the State legislature and the Governor are:

A. Moves primary for all except city elections to September. Requires conventions to be held within 30 days in advance of primary.

B. Require strict reporting of campaign contributions including a person who might spend money for candidate without candidates permission or knowledge. All contributing over $50 must be listed individually—those below may be lumped.

C. Requires a computerized voter list including central state office master tape.

D. Requires voting machines to be used throughout state.

E. Requires every county and city to have a central registrar with an office open at regular office hours.

The proposed constitutional amendments have been approved by a special session of our legislature this past summer and will be submitted to the January-February 1970 session for final legislative action before submission to voters for approval in the November 1970 election.

The second proposal will be submitted to the January-February 1970 session of the legislature for approval and adoption.

These proposals do not discriminate against anyone on the basis of race, color, creed, or religion, and it should not be necessary to get permission of the Federal Government to adopt them.

The defeat of H.R. 4249 or the adoption of the substitute, H.R. 12695, will make such prior approval of the Federal Government unnecessary. I again urge the defeat of H.R. 4249 and the adoption of H.R. 12695.

Mr. McCULLOCH. Mr. Chairman, I now yield to the gentleman from Michigan (Mr. HUTCHINSON) 2 minutes.

Mr. HUTCHINSON. Mr. Chairman, the constitutional basis of the Voting Rights Act of 1965 was the 15th amendment. The constitutional basis for the proposed substitute to be offered by the gentleman from Michigan (Mr. GERALD R. FORD) troubles me, frankly.

Apparently the constitutional basis of the substitute is a much broader construction of constitutional power than even the courts have yet definitely accepted. Every provision of the Voting Rights Act of 1965 is based upon the theory of implementing the 15th amendment. As I read the substitute, on the other hand, all of these tests and devices are to be suspended nationwide, not on any basis of implementing the 15th amendment, not on any basis of protecting the people's right to vote regardless of race or color, but rather on the theory that whatever the Congress deems to be appropriate legislation in the field of voting rights can supersede admittedly constitutional State law on the qualifications to vote on the idea that the Federal power is supreme over the State power, and so if legislation is appropriate, it can be upheld even though it supersedes otherwise constitutional State power.

This disturbs me. Particularly am I disturbed because this theory is being applied to set aside the residency requirements of the State so far as voting for the President and Vice President is concerned.

The idea is that we can set aside all these residency requirements as an appropriate use of the enforcement power of Congress under the 14th amendment or the 15th amendment or any other of the several amendments relative to voting rights in the Constitution.

I say if the Congress may by statute suspend residency requirements of the States, we can by statute provide how old a citizen must be to vote for the President or Vice President, and we can go further and say that in order to vote for President or Vice President, every election board in every precinct shall be composed in a certain way, and the vote shall be tabulated in a certain way.

The end result is that we will be simply creating a national election system, completely destroying the powers of the States in the election process.

Mr. CELLER. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, I think I have the credentials as a southerner with respect to geography, heritage, and vernacular. I do not think there is any particular ideology which is the single southern orthodoxy, however.

I wish to comment on this bill and the amendment which is to be offered in the form of a substitute and also to comment about legislation of this general type.

Two faults have marked penal social legislation, in my opinion. One is that it too frequently shoots at old and infirm inequities when new and virulent ones are emerging. The second is that it applies its principle of law a case at a time.

Thus the wolf is caught, flayed, its hide taken in, and the bounty collected, while whole herds of sheep are being devoured.

I am speaking from some experience. It happens to have been in the State of Texas where both of the Nixon cases, that is, Nixon against Herndon and Nixon against Condon, and where Smith against Allright all arose between the years 1927 and 1943. It was during this long drawn-out period that Negroes in my State were seeking their rightful participation at the polls.

Fortunately, by the time of the passage of this act, Texas did not fall in the category of having less than 50 percent registered or 50 percent voting in the 1964 election. It was not because Texas was not in the South or because Texas was a border State. It was because of the rule of the act, which has nothing to do with geography, that Texas escaped inclusion in sections 4 and 5 of the act. The formula of the act is not regional. It is with respect to performance.

I am tired of hearing the attack that this statute is regional. It is not regional if a State in the region has escaped the formula for inclusion. I want to say quite frankly one of the reasons Texas escaped that formula is because approximately one-third of the population belongs to two minorities.

About one-fifth of the population is Mexican-American.

About one-sixth of the population is Negro.

Those proportions have changed from the one side to the other in the last 10 years.

But we have not had the deep-seated prejudices in my State with respect to the Mexican-American minority. Beside that, the Mexican-American minority in some counties, as is quite notable from some elections in the past, had an actual majority and had to be listened to politically. Therefore, it formed a bridge to ward recognition of minority rights and we escaped because of that bridge and because of that performance.

Mr. McCULLOCH. Mr. Chairman, will the gentleman yield for an observation?

Mr. ECKHARDT. I am glad to yield to my distinguished colleague.

Mr. McCULLOCH. I am very glad to hear the statement which is being made. I should like to make a statement for the RECORD. The summer-fall 1969 figures showed that 73.1 percent of the black people in Texas are registered to vote.

Mr. ECKHARDT. I thank my colleague. I am proud of that record.

Mr. McCULLOCH. And 61.8 percent of the white people are registered to vote. More of the black people are registered than whites in Texas.

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

Mr. ECKHARDT. I am delighted to yield to my colleague from South Carolina.

Mr. WATSON. The gentleman knows the high regard I have for his ability.

With reference to the discussion as to whether or not this is a regional measure, if it is not a regional measure, then, at the end of the 5-year period, next year in August, why would not the proponents of this measure allow those five Southern States which have met the 50-percent requirement to come out from under the law? Why would not the proponents let them get out from under?

Mr. ECKHARDT. I am glad the gentleman made that comment at this time, because it does lead into the rest of my remarks.

The situation is simply this: that when the presumption of discrimination with respect to race fell upon those States which had not accomplished the 50-percent level it became necessary to give a period of time in which those States could have Federal surveillance exercised over them in order to be assured that the electorate would sufficiently grow so that ultimately the vote and the political pressure in the State would protect the honesty of the electorate in that State and the control of that State.

Here is what happened in my State, and here is how this thing was ultimately cleared up. Here are the dangers that can exist today if this law is not continued.

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

Mr. CELLER. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. ECKHARDT. Though we had met these needs at an early date we had not met the standards of the Brown decision of 1954.

I recall my courageous colleague in this House, the distinguished gentleman from Texas (Mr. GONZALEZ), conducting the longest filibuster in history attacking nine of the same type of laws which are used in order to defeat voting rights which were then proposed to defeat the rights of Negro citizens and children to attend the schools.

If we should permit an attack on an old inequity to be substituted for a bill which effectively attacks a continuing inequity, we would abolish that protection, that continual surveillance, over those legislatures which have infinite innovative capacity to devise processes of foot-dragging against putting into effect voting rights.

Mr. CELLER. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. FARBSTEIN).

Mr. FARBSTEIN. Mr. Chairman, the amendment we have before us is based upon the recommendations made by the Attorney General, John Mitchell, before the Judiciary Committee, and represents the administration alternative to a simple 5-year extension of the 1965 Voting Rights Act. It would appear to me that this proposal is strictly political in its motivation and that the administration is less concerned about voting rights than it is in wooing the South as part of its grand southern strategy. This proposal would serve to retard the progress in black voter registration that has come about as a result of the 1965 act. For that reason, I shall vote against it and vote for a simple 5-year extension of the current law.

The Voting Rights Act of 1965 includes provisions suspending literacy tests and devices used by Southern States to prevent black voter registration. It empowers the Attorney General to appoint Federal examiners and observers in areas where there is evidence of violation of the 15th amendment due to manipulation of the registration system. The examiners prepare lists of eligible voter applicants whom State officials are required to register. The act also prohibits States and political subdivisions, in which literacy test suspensions are in effect, from enforcing new voting procedures which have the object of preventing black voter registration.

It has been the most effective piece of civil rights legislation in our Nation's history. Since enactment of the 1965 act, in the five States where Federal examiners have been appointed, black registration has jumped from 29 percent to 52 percent. More than 2 million have been enfranchised and 463 Negroes have been elected to public office. Despite this success, black voter registration is still low in numerous counties within these States. The voting problems at which the 1965 act were directed have not been fully solved. With key provisions of this act due to expire in August 1970, it is feared that September 1970 will see massive reregistration drives to deny voting rights already won, as well as deprive the relief still denied thousands in States and localities now covered.

The Nixon substitute would dissipate the effectiveness of the Voting Rights Act by applying standards irrelevant to the civil rights issue and by shifting the focus of enforcement away from those States where abuse exists. The black citizens of the five Southern States now covered would be left to their own devices as Federal enforcement officials were pulled out. I can see no reason for not passing a simple 5-year extension of the act as it is now constituted especially in view of the fact that it has performed the functions with great efficacy. Certainly the proposed substitute does nothing to improve upon the law.

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

Mr. COHELAN. Mr. Chairman, I would like to express my firm support for extension of the Voting Rights Act of 1965 as is, without amendments. I feel that this is not the proper time for considering change of this very important law, for the suggested changes are not as immediately pressing as extending the act in its present form.

The enactment of the Voting Rights Act of 1965 was a milestone in positive legislation designed to assure equal rights to all of our citizens. It was a long, hard-fought battle here in Congress and outside in the southern battlefields. We all remember the controversies and heated debates on the floor in securing passage of this act. We should never forget the violence, terror, bloodshed, and sacrificing of human victims that accompanied enforcement of this law. Medgar Evers was gunned down by an assassin; Vernon Dahmer, a local worker in voter registration drive was murdered by arsonists who firebombed his home and grocery store; Viola Liuzzo and Jonathan Daniels, civil rights volunteers, were shot and killed by terrorists. These are but a few who come to mind immediately. We

all know there are countless others who were victims of shootings, burnings, and other terrorists activities.

We paid a very high price to guarantee "freedom and justice for all" and we are now beginning to see some of our efforts. Recent statistics indicate that there are now over 1 million Negroes newly registered to vote in the South, a notable increase since 1965. We also see 400 Negroes who were elected to public office in the several southern regions covered by the present law.

These statistics are heartening, but let us not be misled by them. The strides made in increasing Negro voter registration and in the number of Negroes holding public office are only the result of a strictly enforced law. We would be naive to think otherwise. The 4 years that have elapsed since the enactment of the Voting Rights Act of 1965 is certainly no length of time in which deep-rooted, century-old attitudes of prejudice and hate can be erased forever. Other civil rights legislation which has been on the books long before 1965 is proof of this fact. This is the main reason why we cannot seriously consider any changes to the Voting Rights Act at this time.

The proposed nationwide ban on literacy tests would perhaps lend a more equitable and juridical character to the Voting Rights Act. There can be no doubt, however, of the very strong need for this legislation in the southern region of our country. That need should not be jeopardized by grandiose extension now.

The administration's proposed amendment which would eliminate the requirement that all States and counties automatically submit changes in their voting laws to the Department of Justice and which would subsequently place authority and responsibility for these matters with State governments is an idea of some merit. However, I am not convinced that the Justice Department is unable to handle this reviewing and screening process nor am I convinced that the States covered by the present legislation did not adhere to the requirement of prior approval of voting law changes by the Department or Justice. It may well be that their compliance with this section of the law was not voluntary. In any case, there is evidence which indicates that there have been over 400 instances in the past 4 years where voting law changes were enacted in State legislatures and some, upon submission to the Justice Department, were found to be discriminatory in nature and were vetoed as proscribed by law.

These are just two instances which underscore the necessity of long and thoughtful study of these questions before any change is attempted. They also indicate the extreme and heated controversy that will undoubtedly ensue should the administration press for adoption of these amendments. There is a real possibility that the proposed administration changes might weaken the present law. We cannot let this happen.

Mr. Chairman, I urge our immediate attention to this most critical matter. We must do all that we can to assure the extension of the Voting Rights Act without change. Only then, when we are certain that the present law is out of danger, can we begin reasoned consideration of the administration's proposals.

Mr. McCULLOCH. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, the Voting Rights Act of 1965 was intended to effectively end the practice of racial discrimination in voting in this Nation. There has since been an awakening of the public to the fact that civil rights, voting rights, and human rights are not a local or regional matter—they are both constitutionally and practically a concern of all parts of the country.

The bill H.R. 4249 was sent to the Congress simply to extend the present law's provisions for another 5 years. The application of the law to only a few areas of the entire Nation was retained. I believe that the law needs improvement and it certainly should be applied to any area where there is constitutionally improper discrimination, not just in the handful of States and counties presently covered.

Particularly with respect to literacy tests, the scope of the law should be nationwide. Why voter-hampering literacy tests should be permitted in some parts of the country and not in others is a distinction which fails to stand the test of logic. There has been a skyrocketing of Negro voter registration in all Southern States since the enactment of the Voting Rights Act. It is not necessary to single out any particular States, but Negro voter registration has doubled, tripled, and increased tenfold, and, in this regard, the Voting Rights Act is an unquestioned success. I am convinced it could be successful nationwide, not just in seven States.

I do not want to weaken the current law that now applies to the seven Southern States, and in my opinion the administration substitute that I expect will be offered does dilute the effectiveness of the present law. It shifts the initial responsibility of the presently covered States from those States in seeking relief from coverage under the act and imposes a duty on the Attorney General to initiate action against States that he believes to be discriminatory. It further would change the forum in such cases from the district court in the District of Columbia to other Federal district courts. There have been cases delayed in other civil rights matters.

The United Auto Workers' Union has testified in support of a nationwide literacy test ban and in support of the effective protections of the 14th and 15th amendments to our Constitution. The American Civil Liberties Union supports eliminating literacy tests throughout the country and eliminating residency requirements which bar voting in presidential elections. The U.S. Commission on Civil Rights has recommended that Congress forbid the application of literacy tests nationwide. These and the comments of many others are documented in the hearings of the Judiciary Committee. With support such as this, I was disappointed when the amendment which I offered in committee to add a literacy test ban in addition to the present provisions of the Voting Rights Act was defeated. I shall continue to press for the same treatment nationwide with respect to literacy tests and other devices which disenfranchise voters.

President Nixon and Attorney General Mitchell offered some suggested changes in proposed legislation, sent to Congress as a substitute for the simple 5-year extension of the present localized law. In brief, the Nixon administration had suggested a nationwide ban on all literacy tests or devices, not in just a few States, but in all States. The committee's recommendation does not contain it. Second, the President suggested abolition of State residency requirements for voting in presidential elections. My colleague, CLARK MACGREGOR, has championed such a proposal, but again, the committee bill contains nothing of the sort. Third suggested was power for the Attorney General to dispatch voting examiners and observers anywhere in the Nation where voter disfranchisement was suspected, but this also was deleted. Also refused were suggestions to give nationwide authority to the Attorney General to start voting rights suits and to create a Presidential commission to study voting discrimination and other corrupt practices.

I support these recommendations in principle, and I hope they can be effected without weakening the present law or by separate legislation initiated and acted upon in the near future. I am aware that the chairman has indicated his willingness to hold separate hearings early next year. This may be the proper vehicle. I am also aware that my friend the distinguished ranking Republican, the gentleman from Ohio (Mr. McCULLOCH) has been pushing for comprehensive election and vote reform. Obviously these equalizing suggestions are more complicated than their mere recital would indicate. However, I feel that the subject is of such importance that the committee should devote the necessary time and energy to a thorough study of these proposals. I sincerely hope that such action can be undertaken by the committee as soon as possible.

Mr. CELLER. Mr. Chairman, I yield 5 minutes to the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Chairman, the Voting Rights Act of 1965 became Public Law 89–110 on August 6, 1965. It was then I believe actually intended to be discriminatory legislation against the South under the guise of providing equal protection under the law. It is indeed today discriminatory legislation, because it does not provide equal protection under the law for all our citizens. It is the most vindictive, unfair, and unconstitutional legislation passed by the U.S. Congress since Reconstruction days and you know it.

I said at that time if this Congress could agree on reasonable legislation which had equal application to all our people that I could in good conscience support such legislation. I believe every qualified citizen should be a part of the democratic process.

I was very much amused yesterday, having heard the arguments in 1965,

when Mr. MADDEN, the ranking member on the Committee on Rules handling the rule here on the floor began his remarks by saying that changes enacted in the Federal laws to eliminate discrimination in voting procedures in certain areas, primarily in the South, had failed to carry out protection for these disenfranchised citizens.

Now, in his use of the word "primarily" the connotation is to me that he himself was admitting that disenfranchisement had occurred in other parts of the United States than just the South, and you know it has.

I was further not just amused, but surprisingly amused, when he said something that he did not intend to say, and perhaps yet does not even realize that he said it, because if he meant what he said yesterday then he would walk down in this well and he would say "I am going to support the substitute, or some change to the proposed law and its continuation," because he said on page 38124 of the RECORD, and listen to me, please:

States that have in good faith eliminated discrimination in voting—as evidenced in 1968 results, compared to those of 1964—should no longer be punished for past wrongs.

Now this simply said that where no discrimination exists today, this law as it is presently written should not apply. He was and is absolutely right.

I defy and I challenge anybody in this House of Representatives to take a position otherwise—to deny that his statement means anything else or that what he advocates should not be done.

Now I have had some firsthand experience in discrimination as provided for in the existing law. Time does not permit me to talk at length about this bill, so I want to tell you about something that actually happened after we passed this law. No law has ever been more abused.

On March 25, 1967, the then Attorney General—and thank God he is not the Attorney General of the United States any more—Ramsey Clark who is not qualified to practice divorce law or get out of the rain sent Federal registrars into three parishes in my Fourth Congressional District in Louisiana. The parishes of Bossier, Caddo, and De Soto.

I called Mr. Clark from Louisiana during Easter recess on the telephone about having sent these registrars there, and I later met with him, I believe it was on April 4, just a few days later in 1967 about this matter.

At the time of our meeting, which I arranged, in attendance at this meeting there was—Mr. Clark; an assistant of his, Mr. Doar; and the two Senators from Louisiana, Senator ELLENDER and Senator LONG, and myself.

I asked Mr. Clark then if he had complied with the law in sending Federal registrars into Louisiana—that is, had he received the 20 complaints which were required. He said, "No."

I said, "Have you had complaints about discrimination in voter registration and in voting in these parishes in Louisiana?"

He said, "No." Do not go away yet.

I asked then why on earth he had sent Federal registrars to Louisiana and what justification he had. I then proceeded with factual records to show him that there was no discrimination.

I was then amazed to have the Attorney General say to me:

Look, I do not even allege discrimination in any phase of the voting machinery or the voting process in the three parishes to which you refer and where I sent Federal registrars.

He said:

I know that anybody who wants to register and vote can register and vote without fear of discrimination or being coerced in any way.

I said:

Then, Mr. Attorney General, why on earth have you sent Federal registrars into these parishes?

He said, and please listen to me:

I want to register more Negroes.

He wanted, he said, to make it convenient.

How brazen can you be? He used Federal employees, Government automobiles, and tax dollars for this purpose. I asked further if he was going to accommodate and register any whites under any circumstances and his answer was "No, I am only going to register more Negroes." He also made these amazing statements to the Governor and attorney general of Louisiana by telephone and the attorney general of Louisiana has sworn affidavits from each of us on file to attest to this.

Well, I do not know how many of you really know what the voting rights law of 1965 says under section 6 which was his verbally stated and written authority for sending them there. Let me read it to you. It is as follows:

SEC. 6. Whenever (a) a court has authorized the appointment of examiners pursuant to the provisions of section (3) (a), or (b) unless a declaratory judgment has been rendered under section 4(a), the Attorney General certifies with respect to any political subdivision named in, or included within the scope of, determinations made under section 4(b) that (1) he has received complaints in writing from twenty or more residents of such political subdivision alleging that they have been denied the right to vote under color of law on account of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment (considering, among other factors, whether the ratio of nonwhite persons to white persons registered to vote within such subdivision appears to him to be reasonably attributable to violations of the fifteenth amendment or whether substantial evidence exists that bona fide efforts are being made within such subdivision to comply with the fifteenth amendment), the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment,

In other words, he admitted that nobody had complained. He had admitted that it was not necessary to send the examiners there because nobody was being denied the right to register and to vote. So he went beyond the intent of the law. He abused the law. He abused the people of Louisiana. He should have been trying to do something about election fraud. The law requires it but, oh no—too much of the fraud in our elections occurs outside the South. It is even worse to not count a vote after it is cast than it is to hinder registration and voting.

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

Mr. WAGGONNER. I am happy to yield to the distinguished chairman, the gentleman from New York (Mr. CELLER).

Mr. CELLER. Is it the gentleman's intention to support the so-called Mitchell-Ford substitute?

Mr. WAGGONNER. Absolutely, because it is better. It has its faults with which I disagree but it is at least fair. What has been "sauce for the goose" will now be "sauce for the gander."

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

Mr. WAGGONNER. I yield to the gentleman.

Mr. ECKHARDT. Is the distinguished gentleman in the well familiar with the fact that section 6 of the Voting Rights Act, the one that provides for the registrars or examiners, exists also in the Nixon substitute?

Mr. WAGGONNER. Section 6?

Mr. ECKHARDT. Yes.

Mr. WAGGONNER. Yes, it does, but this triggering device that the present law uses does not exist in this substitute in the same manner as it exists in the present bill.

Mr. ECKHARDT. Furthermore, the gentleman I believe has mentioned here that the law is regional in effect. Is the gentleman familiar——

Mr. WAGGONNER. Yes, I am familiar with it and let me tell you, I know this law.

Mr. ECKHARDT. May I complete my question.

Mr. WAGGONNER. Your question was—am I familiar with the regional effect—yes—and that is my complaint.

Mr. ECKHARDT. But also in section 3 of the act which provides for triggering this law can apply in Chicago or Detroit or anywhere.

Mr. WAGGONNER. That is not what I am talking about. He wrongly sent these people under section 6 into Louisiana. I am not talking about section 3, I am talking about section 6. The law has not been violated by anyone but Ramsey Clark.

Mr. ECKHARDT. But section 3 activates section 6.

Mr. WAGGONNER. The gentleman has had his time, I refuse to yield further.

Mr. Chairman, the Attorney General admitted that there was no discrimination in voting procedures in Bossier, Caddo, and De Sota Parishes, La.

The ranking member on the Committee on Rules on the Democratic side says that if there is no discrimination, this law should not apply. But you intend for it to apply.

My friends, there was no discrimination in a single one of these parishes, I do not have the time to go into all three fully. But on July 31, 1965, before this act became law, there were 4,806 Negroes registered in Caddo Parish.

When Ramsey Clark sent Federal registrars into Louisiana, there were in this same parish 12,329 Negroes registered. There was no discrimination. There is no discrimination. They all were complying with the law and still are.

Whipping a dead cat does not accomplish anything in this country. You

have to quit whipping the South. What else am I talking about? Do not tell me the South is not still being whipped. I have here an article from the Paterson, N.J., newspaper of November 20, last, in which there is an article which quotes the superintendent of schools there. He says they will never in that school district hire a teacher with a southern accent. Now, this is discrimination too. I know the Members abhor my saying it, but the South is still being discriminated against for something for which there is no justification and it is continued vindictively. What other basis exists for your actions? The answer, of course, is none and you know it. You ought to hang your head in shame.

Mr. McCULLOCH. Mr. Chairman, I yield the gentleman from Connecticut (Mr. MESKILL) 2 minutes.

Mr. MESKILL. Mr. Chairman, first I would like to make a remark in answer to an insinuation by the gentleman from California (Mr. CORMAN), when he referred to the substitute and what its real purpose was by saying we should notice who the players are and then make up our own minds. I would like to consider myself as one of the players in favor of the substitute. I know the gentleman from California (Mr. WIGGINS) is another one of the players, as is the gentleman from Michigan (Mr. GERALD R. FORD). None of us are what could be called southerners, and none of us are from States which would be adversely affected by sections 4 and 5 of the act, which is what is before us today.

Mr. Chairman, we are not debating the extension of the Voting Rights Act of 1965 today, we are only debating the extension of two of the 19 sections of the Voting Rights Act of 1965.

The other 17 sections of the act will remain law fully and indefinitely without any further congressional action. The two sections we are concerned with are sections 4 and 5. These are the temporary sections. These are the sections which will expire on August 5, 1970, unless extended.

In order to make an intelligent evaluation on the need to extend the temporary sections, we must fully understand the content of the permanent provisions of the Voting Rights Act of 1965.

Under the permanent provisions of the Voting Rights Act: First, when the Attorney General brings a suit under the 15th amendment to protect voting rights against racial discrimination, the court is empowered to enter either an interlocutory order or a final judgment requiring the Civil Service Commission to appoint Federal examiners to register voters; second, in such suit, the court is empowered to suspend the use of literacy tests "for such period as it deems necessary"; third, in such suit, the court retains jurisdiction "for such period as it may deem appropriate" and during that period, the State cannot implement any change in its voting laws until the court determines that the new law will not have the purpose or effect of racial discrimination or until the Attorney General of the United States has filed, within 60 days after submission, to object to the new law; fourth, when Federal examiners have been appointed under such suit, the Attorney General may require the Civil Service Commission to send Federal observers to the local voting precinct to oversee the process of voting and the tabulation of votes; fifth, no State may enforce a literacy test with respect to a registrant who has completed the sixth grade in a non-English-speaking school; sixth, criminal penalties of 5 years in jail or a $5,000 fine, or both, can be imposed upon anyone convicted of depriving, attempting to deprive, or conspiring to deprive any person of his voting rights on account of race or for destroying, defacing, multilating, or altering ballots or official records; and, seventh, the Attorney General is empowered to bring a suit for an injunction when he has reasonable grounds to believe that any person is about to engage in any act prohibited by the Voting Rights Act.

Two facts should be remembered with respect to these permanent provisions of the Voting Rights Act: First, all are permanent law; and, second all apply to all jurisdictions in all 50 States.

The only provisions which are temporary are sections 4 and 5. The only provisions which apply to less than all the States are sections 4 and 5.

Section 4 applies to those States with literacy tests where less than 50 percent of the voting-age population was registered or less than 50 percent voted in the 1964 presidential election. This mathematical formula also covers individual counties in States with literacy tests, even when statewide figures exceed 50 percent registration of voter turnout. Section 4 triggers section 5. If a State or county falls within the provisions of section 4, section 5 automatically applies.

Section 5 provides that such a State cannot legislate new voting laws until it has either: first, brought a suit in the district court for the District of Columbia and proved that the new law does not have the purpose or effect of racial discrimination; or second, submitted the new law to the Attorney General of the United States and persuaded him for a period of 60 days not to interpose an objection. The thrust of sections 4 and 5 are based on two hypotheses: first, an arbitrary 50-percent voter registration or voter turnout has been determined to indicate that racial discrimination exists which denies qualified citizens the right to vote; and second, literacy tests are the vehicle for the discriminatory practices. While there may be some logic in these hypotheses, they have not been tested to my satisfaction. As sections 4 and 5 are written, they are not even consistent. Texas only had 44-percent voter participation.

If the mathematical formula is valid, one could conclude that discriminatory practices exist, and yet Texas is exempt from the provisions of sections 4 and 5 because Texas does not have a literacy test. Virginia falls below the 50-percent figure and is subject to the provisions of section 5, even though the Civil Rights Commission has stated that the absence of complaints to the Commission, actions by the Justice Department, private litigation, or other indications of discrimination lead it to conclude that Negroes appear to encounter no significant racially motivated impediments to voting in Virginia.

The escape clause mechanism of section 4 and escape coverage of section 5 offer little help. It is practically impossible to conclusively prove an absolute negative.

I represent a State which has a literacy test as a qualification for voting. I feel certain that in Connecticut the literacy test is not a racially motivated impediment to voting. Nevertheless, under the permanent provisions of the Voting Rights Act, the literacy tests could be suspended for such period as the court deems necessary if the Attorney General were to bring a suit under the 15th amendment to protect voting rights against racial discrimination. This is as it should be. This is evenhanded treatment. I must agree with the dissent of Mr. Justice Black in the case of *South Carolina* v. *Katzenbach*, 383 U.S. 301, 358:

> Section 5, by providing that some of the States cannot pass State laws or adopt State constitutional amendments without first being compelled to beg Federal authorities to approve their policies, so distorts our constitutional structure of government as to render any distinction drawn in the Constitution between State and Federal power almost meaningless. One of the most basic premises upon which our structure of government was founded was that the Federal Government was to have certain specific and limited powers and no others, and all other power was to be reserved either to the States respectively, or to the people. Certainly if all the provisions of our Constitution which limit the power of the Federal Government and reserve other power to the States are to mean anything, they mean at least that the States have power to pass laws and amend their constitutions without first sending their officials hundreds of miles away to beg Federal authorities to approve them * * *. I cannot help but believe that the inevitable effect of any such law which forces any one of the States to entreat Federal authorities in faraway places for approval of local laws before they can become effective is to create the impression that the State or States treated in this way are little more than conquered provinces. And if one law concerning voting can make the States plead for this approval by a distant Federal court or the U.S. Attorney General, other laws on different subjects can force the States to seek the advance approval not only of the Attorney General but of the President himself or any other chosen members of his staff.

Mr. Chairman, I will support the substitute which will be offered by the gentleman from Michigan (Mr. GERALD R. FORD), which provides for evenhanded treatment of all States, instead of extending until 1975 a ban on literacy tests in States, five of which have made sufficient progress by 1968 so that under the criteria of the original act, would no longer be covered by the trigger provisions.

It provides—

First, a nationwide ban on literacy tests and similar devices until January 1, 1974;

Second, nationwide authority for the Attorney General to assign Federal examiners to register voters and to send Federal observers to monitor the conduct of elections;

Third, establishment of a Presidential Commission to be known as the National Advisory Commission on Voting Rights,

to study the effects of literacy tests and the impact of fraud or corrupt practices on voting and to report and make recommendations to the President and Congress by January 15, 1973;

Fourth, establishment of uniform residency requirements for voting for President and Vice President of the United States; and

Fifth, in lieu of the present provisions of section 5 of the act, nationwide authority for the Attorney General to initiate voting rights lawsuits to challenge discriminatory voting laws and practices.

I believe it is time we stopped fragmenting our country. It is time we stopped presuming that one section of the country is innocent until proven guilty and another section is guilty until proven innocent. The Civil War is over. Let us get on with the business at hand.

Mr. McCULLOCH. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Chairman, before I get into my remarks which are prepared, I want to comment on a couple items which are misconceptions and which should be straightened out.

One misconception, which has been mentioned in the remarks of several previous speakers, is to the effect that the administration substitute bill creates a remedy for which there is no wrong, and other speakers have said it is much like building a dam in Idaho to prevent a flood in Mississippi. The implication is that the present strictures applicable to some of the Southern States would under the administration's bill be extended nationwide. That, of course, is not true. The administration bill does not treat the rest of the Nation like the South, but rather it treats the South like the rest of the Nation. So if there are any gentlemen on either side of the aisle who are fearful of the administration bill for the reason that it would impose these very stringent and in many ways discriminatory rules on their States, fear not, for that is not the purpose of the administration bill.

A second item I wish to comment on particularly is the dramatic increase in the number of registered black voters in the South which is attributed to sections 4 and 5 of the Voting Rights Act. I doubt if that is true. I think that much credit has to be given to the Voting Rights Act for this dramatic increase in registration, but not through the triggering paragraph, not to paragraph 5, which requires a prior approval of voting procedures. In my view the increase in registration is caused primarily as the result of the intensive registration drives conducted by civil rights groups throughout the South and by the aggressive use of observers and examiners under section 6 of the act. Indeed, there has been, I might say, a dramatic increase in black registration in States other than the six in the South. Texas, for example, is a State in which there has been a dramatic increase in registration notwithstanding the fact that it is not covered under sections 4 and 5.

A third point I wish to make is this, and I ask Members to please listen to me well on this point.

There is no doubt that a case-by-case approach to the problem of equal voting rights has not worked in the past. It is the realization of that fact which triggered the Voting Rights Act of 1965. But do not be misled. The Voting Rights Act of 1965 has eliminated the case-by-case approach to the solution of problems.

Let me tell the way it works according to the testimony. If a State covered by the act, one of the Southern States, wishes to change a voting procedure, it is supposed to go to the Attorney General or file an action before a three-judge district court in the District of Columbia. Many States have presented innocuous, innocent little changes in their voting procedures to the Attorney General, and the Attorney General has consented to them in all cases but 10.

But do Members know what has happened? When States wish to enact insidious discriminatory practices such as removing an office or changing voting boundaries, when they really intend to discriminate, they do not go to the Attorney General at all, and the Attorney General then must revert to a case-by-case attack upon these discriminatory practices. That is the truth.

What I am saying is that if we seek a blanket approach to the problems of ending discrimination wherever it may be found we are not going to achieve it by a simple continuation of sections 4 and 5.

Mr. McCULLOCH. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana (Mr. DENNIS).

Mr. DENNIS. Mr. Chairman, the issues we face today on this matter before us are very important and very fundamental, and they are issues which are charged with very genuine emotion on both sides of the case.

I may say that as far as I am concerned I respect that feeling and emotion on the part of all concerned.

For me personally, the issues posed here are very difficult to vote upon because to my way of thinking we have one of these hard cases where two good principles collide. On the one hand we have the principle that every man should be able to vote regardless of race and color. I subscribe to that as firmly as anybody in this House. And I know that right has been denied him in some cases in this country, and I object very strongly to such denial. I did not grow up under those circumstances. Everybody votes where I come from.

On the other hand, I also believe in our federal system of government. As a lawyer, and as an American, it is exceedingly hard for me, even in order to reach a concededly bad situation, to support a law which actually requires one of the States of this Union to come down here to Washington and get prior permission before it can put its own legislation into effect.

Therefore, these two good principles clash here. A man just has to resolve the problem by his own individual decision. I do not quarrel with anybody who resolves it one way or the other in good faith.

I have already indicated my difficulties with the committee extension of sections 4 and 5 of the act of 1965, and the fact that I tend to prefer the more conventional legal approach, through the courts and applied equally all over the country, of the administration substitute. But I do not want to give the impression that I believe the substitute is perfect.

In addition to that approach, which I believe is sound, it has been loaded down with various provisions unnecessary to the main thrust of the bill to which I personally object. I agree with my distinguished chairman, the gentleman from New York, that the provision abolishing literacy tests all over the country is in all probability unconstitutional. It has been so held in the Northampton case by the Supreme Court of the United States, and I do not believe that case has been overruled. So I do not believe that the nationwide ban of literacy tests is a valid, constitutional provision in the administration bill. Because I do not, at the appropriate time I am going to offer an amendment here to take that provision out of the administration bill. I believe it would be a cleaner bill and one I could vote for with a better conscience if that provision were removed.

Mr. McCULLOCH. Mr. Chairman, I yield the last 4 minutes on this side to the gentleman from New Jersey (Mr. SANDMAN).

Mr. SANDMAN. Mr. Chairman and my colleagues, what I see happening here today reminds me to a large extent of what we do back in my party in my State back home. We seem to follow a policy there that, whenever we do something that succeeds and is worth while, we stop doing it. This has led to a catastrophe from time to time.

Mr. Chairman, in this case we have a law which has been successful. In this case we have a law which has allowed some States that have been accused of doing things that are not what we like to see done rectified. I think it is to the credit of those seven States while this law has been in effect during these last 5 years that there have been great strides made to stop discrimination in the field of voting rights and I think those States deserve a great deal of credit. I do not see any harm done to those States or any other States, if this law is extended and I think it should be extended. I do not think we are going to do any damage to those States. I do not think we are being unfair to those States. I think it is altogether wrong, as my friend from Virginia said, that, in Virginia, which is the cradle of all the good things that have happened to this country, that as a State it cannot enact a law as a matter of State law unless it is first approved by the Federal Government. This I think is wrong and he is right when he says that it is wrong. I would like to see that done away with. I believe eventually it will be done away with.

Mr. Chairman, I listened to my friend, the gentleman from Louisiana, and there is no man for whom I have more regard than the gentleman. I can understand his feelings. I do not believe it is right that the Federal Government should have a right to give the Attorney General such vast powers. I think it is far better for the States to decide for themselves what the States want to do. For a lifetime I have supported the home rule theory that the States should be

able to do those things, and I would like to see that done.

Mr. Chairman, I think it is altogether wrong that there should be a Federal law which imposes a residency requirement upon all 50 States. I think it is best decided by the State and I would like to see it decided by the State. But, correspondingly, I can hardly believe it is right for the State of Mississippi, for example, to require a 2-year residency in order to vote for the President of the United States or anyone else. I think 2 years is a little too long. In that State you have to be a resident of the precinct and county for 1 year. If you moved during that period of time you could not vote for anyone. This I do not think is right either and in some way we have to reach a medium and I think the committee bill is the best vehicle we have, to reach that medium.

I hope that in the extension of this bill all of these things of which none of us approve will be rectified. I think this is our best opportunity and for this reason as a member of the Committee on the Judiciary—and I heard all the testimony and studied it for hours as our chairman has and as our ranking Republican leader on that committee has and I support the committee position. It is the only sound position that we can take today.

Therefore, Mr. Chairman, I urge an overwhelming vote in support of the committee bill.

Mr. REID of New York. Mr. Chairman, will the gentleman yield?

Mr. SANDMAN. I yield to the gentleman from New York.

Mr. REID of New York. I thank the gentleman for yielding and I rise in support of H.R. 4249, the extension of the Voting Rights Act of 1965, without amendment, and in opposition to the substitute which in my judgment would represent a tragic and devastating backward step.

To fail to extend the Voting Rights Act as is would be an invitation to a number of States to resume and step up certain discriminatory practices which are repugnant to all men of conscience.

To fail to extend the Voting Rights Act as is would be to betray the principles for which many Americans fought and for which some died—Martin Luther King, Jr., Medgar Evers, Mickey Schwerner, James Chaney, Andy Goodman, and others.

The purpose of the Voting Rights Act of 1965 was to secure full enfranchisement and the right to participate fully in political activities for all citizens. Considerable progress has been made toward that goal in the Southern States, but there is indisputable evidence that as one type of discrimination is eliminated, yet another barrier to political participation is created by the warped imaginations of those who seek to prevent the Negro from assuming an active role in politics.

Rev. Theodore M. Hesburgh, who has served on the Civil Rights Commission for 12 years and is now its chairman, has written that "the administration's substitute is a much weaker bill." He continues:

> I do fear that many Members of Congress feel that the voting problems at which the 1965 Act was directed have been solved. They have not. The Fifteenth Amendment remains to be fully implemented. We cannot retreat on this front. If we do, we run the risk of endangering the faith of many of our people in the ability of our Government to meet the legitimate expectations of its citizens.

There are three central remedies under the Voting Rights Act: First, suspension of literary tests and similar devices, second, prohibition against enforcement of new voting regulations pending Federal review to determine whether their use would perpetuate voting discrimination, and, third, assignment of Federal examiners to list qualified applicants to vote and assignment of Federal observers to monitor the conduct of elections. The statutory formula, which determines those jurisdictions to be covered by these provisions, applies to those States and political subdivisions which, on November 1, 1964, maintained a literacy test or similar device as a prerequisite to registering to vote, and in which less than 50 percent of the residents of voting age were registered on that date or voted in the 1964 presidential election.

The act, therefore, presently applies to the States of Alabama, Georgia, Louisiana, Mississippi, South Carolina, and Virginia; and Yuma County, Ariz.; Honolulu County, Hawaii; and 39 counties in the State of North Carolina.

Under the terms of the act, a covered jurisdiction could obtain exemption from the provisions of the act in August 1970 by obtaining a declaratory judgment in the District Court for the District of Columbia, based on the showing that no test or device has been used in that State or subdivision during the preceding 5 years for the purpose or with the effect of denying the vote, because of race or color. What this means is that covered jurisdictions could use the fruits of the past 5 years in order to obtain an exemption from the act and return to their pre-1965 practices. As Chairman CELLAR pointed out in testimony before the Rules Committee:

> Unfortunately, the record shows that substantial dangers remain, that the accomplishments of the past four years are delicate and will be erased if a continued Federal presence is not assured.

Federal examiners have been appointed in certain counties in Alabama, Georgia, Louisiana, Mississippi, and South Carolina, and in those five States Negro registration has risen from approximately 29 percent of the Negro voting-age population to 52 percent.

Roy Wilkins, chairman of the Leadership Conference on Civil Rights, has pointed out that—

> The Voting Rights Act in less than four years has demonstrated its immense value. It has brought more than 800,000 voters to the rolls in states that have traditionally sought to disenfranchise minority group members. It is directly responsible for the election of about 400 Negro officials in communities that have had no Negro officeholders since Reconstruction.

This is, indisputably, dramatic progress and, some critics of the law would argue, sufficient progress to put those States over the 50 percent triggering mechanism in the statutory formula. I would submit that the job is not yet finished, that Negro registration is nowhere nearly as high as it should be and that as registration goes up, harassments to running for office and voting also go up. This, I believe, is clear evidence that the Voting Rights Act must be continued for another 5 years. To do otherwise will be to permit the States of the South to return to their discriminatory practices, with the resultant waste of years of effort and lost lives.

What is the clear evidence supporting extension of the Voting Rights Act? First, registration figures indicate that Negro registration in Mississippi has increased from 6.7 percent to 59.4 percent since the Voting Rights Act. But 92 percent of eligible Mississippi whites are also registered, and that is a disparity plainly indicating that there are many, many more Negroes in Mississippi who could be voting but are not. There are similar gaps between Negro and white registration in other Southern States, and, especially, in individual counties and political subdivisions. In Alabama, for example, less than 50 percent of voting age Negroes are registered in 27 out of 67 counties.

Second, there continues to be harrassment of Negroes who wish to register and to vote, and several jurisdictions have undertaken new, unlawful ways to diminish the Negroes' franchise and to defeat Negro candidates. A Civil Rights Commission study of May 1968, entitled "Political Participation," details obstacles to Negro participation in the electoral and political processes. The chapter headings speak eloquently for themselves: "Diluting the Negro Vote," "Preventing Negroes from Becoming Candidates or Obtaining Office," "Discrimination Against Negro Registrants," "Exclusion of and Interference with Negro Poll Watchers," "Vote Fraud, Discriminatory Selection of Election Officials," and "Intimidation and Economic Dependence."

Some of the particularly offensive practices discussed in detail include exorbitant filing fees, switching to at-large elections when Negro strength is concentrated in certain districts, abolishing or making appointive offices sought by Negro candidates, and lengthening the terms of incumbents. Sometimes, if a voter does not cast ballots for a number of candidates equal to the number of positions to be filled—as in a school board election, for example—his ballot is not counted at all, thus forcing Negroes to vote for white candidates if they want their votes for Negro candidates to be counted. "Full-slate voting," as this is called, dilutes the effect of their vote for the Negro candidate.

As recently as June of this year, a report by the Civil Rights Commission on the May 13, 1969, municipal elections in Mississippi states that "not one black candidate in a county where Federal observers were present believed the election would have been run in an honest manner were it not for the presence of these observers."

The report recounts incidents in which black citizens feared white economic reprisals if they registered to vote, or situa-

tions in which the city clerk was not available to register voters except at the most inconvenient hours for working people, or, in fact, charges of a county clerk making a crippled black woman stand and walk around for 15 minutes while she was being registered to vote. Polling places were changed without publicity, names on registration lists marked as already voted when in fact they did not, names simply removed from the list, and registration lists made inaccessible in advance of the election in order to discourage challenges of unqualified voters and the legitimate defense of those challenged unjustly.

The Voting Rights Act requires that covered States clear their new voting statutes and practices with the Attorney General or the Federal District Court for the District of Columbia, and, in fact, Attorney General Mitchell disapproved of a number of proposed changes in Mississippi and Louisiana last summer. Yet, as the distinguished ranking minority member of the Committee on the Judiciary (Mr. McCULLOCH) observed on July 2, the administration bill proposes to eliminate that requirement of the law "in the face of spellbinding evidence of unflagging southern dedication to the cause of creating an ever more sophisticated legal machinery for discriminating against the black voter." To give the Attorney General nationwide authority to bring voting rights suits to challenge discriminatory practices and laws, as the administration bill proposes, would move the struggle to obtain electorial justice from the ballot box to the courtroom—with its attendant delays—and thereby vitiate the very success of the Voting Rights Act.

Further, in testimony before the Judiciary Committee, the Attorney General indicated that he did not need additional attorneys in the Civil Rights Division. There is, however, substantial evidence that this division is undermanned now, not to speak of the increase in litigation likely to result from the substitute bill.

Surely, there is ample need for continued and even more vigorous efforts on the part of the Federal Government to insure justice in southern elections. Indeed, the Civil Rights Commission report on the Mississippi elections makes several recommendations about strengthening the effectiveness of Federal examiners and observers. I cannot express more cogently than the distinguished gentleman from Ohio my objections to the administration bill. "As I understand the provisions of the administration bill which pertain to the heart of this controversy," Mr. McCULLOCH said in July, "they sweep broadly into those areas where the need is least and retreat from those areas where the need is greatest."

This Nation made a solemn commitment in 1870 that "the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." Ninety-five years later we passed legislation to implement that promise. It would be the most callous act if we were to mark the 100th anniversary of the 15th amendment by acquiescing in the Southern States' continued pursuit of Negro subjugation and discrimination. There have been no complaints from the 14 other States outside the South which have literacy tests and other devices, yet there continue to be small-minded men in the South who persist in devising ever more subtle forms of voting discrimination. That is where Federal resources must be concentrated; that is where the job must be done.

Mr. Chairman, I urge support of the committee bill and defeat of the administration substitute.

Mr. CELLER. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from New York (Mrs. CHISHOLM).

Mrs. CHISHOLM. Mr. Chairman, I think it is very important for us to recognize that many of us have heard the statement before that eternal vigilance is the price that we pay for freedom. I think that until a large segment of our population in this Nation is assured that there will no longer be this type of discrimination but have the assurance of human rights which have been denied them by certain groups that we should extend the Voting Rights Act of 1965.

I think it has already been pointed out how effective this act has been in terms of giving hope to a large number of the black citizens of this country. And until we know by deeds and actions, and not by words and jargon, that there is no need any longer for vigilance, the Voting Rights Act of 1965 must be extended.

I think we do recognize that there is change going on in our Nation, and that those of us who have been speaking about making the world safe for democracy must be quite sure that we make America safe for all of its citizens, regardless of race, color, or creed, within its borders.

I know, Mr. Chairman, that in many instances those of us who have been the beneficiaries of the status quo find it most difficult to realize that in this day and in this age certain voices in America are now saying that we are through with gradualism and we are through with tokenism, and we want our full share of the American dream that everyone so unequivocally speaks about.

So, Mr. Chairman, I ask and urge that we extend the Voting Rights Act of 1965, recognizing that the day has come in America when black and white will be given the fullest privileges. Let us hope that in the very near future we will not have to have any special devices or acts in order to assure a certain segment of our population in these United States that justice is theirs in the fullest sense of the word.

Mr. CELLER. Mr. Chairman, I yield myself such time as I have remaining.

The CHAIRMAN. The gentleman from New York is recognized for 5 minutes.

Mr. CELLER. Mr. Chairman, I want to say at the closing of this debate that great credit is due to those areas that have been affected materially by this bill. I think that we must indeed give an accolade to many of the leaders of those communities, because many, many thousands of Negros have been enabled to be placed on the registration rolls, and have voted, and many hundreds of Negros are now holding public offices.

I think this is a very creditable performance, and I do not think there is any need to castigate anyone or any particular community. On the contrary, I think a great deal of praise is due, and we would be derelict in our duty if we did not offer that praise.

However, despite that cooperation of many local officials, much remains to be done. Prejudices die hard, and prejudice has been the cause of most of the difficulty over the century, ingrown, and endemic, and the law has helped destroy those prejudices. It cannot obliterate them completely, but it does help, and the Voting Rights Act of 1965 undoubtedly has helped. I think an extension of the act will to a greater degree cause the people of those affected areas to in a more material way hearken to the old voice of Leviticus proclaiming liberty throughout the land to all the inhabitants thereof.

See how wise Leviticus was. He did not simply say "Proclaim liberty throughout the land," he emphasized to all the inhabitants thereof.

I believe that the Mitchell amendment that is going to be offered does away with the so-called trigger arrangement and tears the very heart out of the act of 1965. I would like just briefly to refer to a statement made by Father Hesburgh in a recent letter to the Attorney General. He said:

> To eliminate existing protection against manipulative changes in voting laws is in no sense an advance in protection of the voting rights of American citizens. It is a distinct retreat. It is an open invitation to those States which denied the vote to minority citizens in the past to resume doing so in the future, through insertion of disingenuous technicalities and changes in their election laws.

As Father Hesburgh says, this substitute amendment rips out the trigger provisions—heart of the 1965 act. If you do that then you open the door of the past, and you close the door to the future.

I do not think we want to do that.

In addition thereto, another great weakening of the proposals, is doing away with the preclearance provisions dealing with new voting laws or practices. That has been of material value to protecting the vote and of the franchise to the Negro.

It is interesting to note what the record of the South has been with reference to preclearance of new election laws. Of the 421 submissions, 20 have been objected to by the Attorney General. In other words, in general the communities affected have realized that it is essential to make progress and to adhere to the general principles of the 1965 act and submit changes in election laws in accordance with provisions of the act of 1965.

The requirement of preclearance is vital today. It will be essential in the future.

Since May 21, 1969, the Department of Justice has objected to 14 changes in the voting laws of Alabama, Louisiana, and Mississippi.

This record alone in 1969 clearly demonstrates the vital need for section 5 preclearance procedures.

When you consider the thousands of

communities and municipalities and boards and councils in the areas affected that are constantly promulgating new laws and changes in voting statutes that may affect Negroes and other minorities, how in thunder can the Department of Justice police all those changes? It could not possibly do it. Therefore, we provided in the 1965 act that if there are any changes, there should be notice given to the Attorney General.

If he approves the change, well and good. If he disapproves the change, then the municipality or State authority can go to the court and appeal the decision.

This procedure has worked. Now that is all going aglimmering under this Mitchell-Ford substitute.

Mr. Chairman, for these reasons and others, I do hope that the substitute will not prevail.

Mr. BEVILL. Mr. Chairman, I believe that to extend the Voting Rights Act of 1965 for another 5 years would perpetuate a law which is unjust in its terms and unequal in its application. As a nation we are committed to the principle of equal justice under law for all our citizens. The 15th amendment to the Constitution states:

> The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

It does not say, "The right of citizens of the United States to vote shall not be denied or abridged by the States of Alabama, Georgia, Louisiana, Mississippi, South Carolina, and Virginia, 39 counties in North Carolina, one county in Arizona, and one county in Hawaii, on account of race, color, or previous condition of servitude."

The fact is that the Voting Rights Act of 1965 was drawn making one law for one section of the Nation, and another law for the rest. The criteria by which States have been brought under the jurisdiction of the law were chosen arbitrarily and are largely irrelevant to the basic problem of illegal discrimination in registration and voting. The 1965 act did not seek to ban literacy tests in all States; it did not question the legality of State and county statutes requiring literacy tests for voter registration at all. Only in States and countries in which less than 50 percent of th total voting age population was registered to vote or voted in the November 1964 election were literacy tests to be suspended. And to these States and counties only does the Attorney General have the power to send Federal examiners and election observers. These States and counties only are prohibited from adopting new voting laws or procedures without the approval of the Attorney General or the U.S. District Court for the District of Columbia.

As a matter of public policy, it seems to me that Congress has a duty to assure that all citizens have equal rights to vote and that all State governments have equal rights to impose, or to be prohibited from imposing, certain voting restrictions. Yet we are today faced with a situation in which illiterate citizens in seven States have a right to vote, while illiterate citizens in 34 States can be barred from the polls by literacy tests. Conversely, the State governments of seven States are denied the ability to impose a literacy test while the State governments of the other 43 States have that right.

Mr. Chairman, if the Voting Rights Act is good for Mississippi, Alabama, and Georgia, it is aslo good for New York, Delaware, and Oregon. I do not believe there is a single Member of Congress who would not support a voting rights bill that protects the rights of every American, if that legislation gives preference to none, provides protection for all, and treats each State on an equal basis.

The extension of the present Voting Rights Act completely ignores the substantial progress in voter registration and participation that has been made. It would continue the punishment of my State and the other States affected on the basis of figures from the 1964 presidential elections which today are simply no longer relevant. In fact, the simple substitution of the results of the 1968 presidential election would eliminate from the provisions of this law all but two of the States now affected by it which have not been exempted by court order.

Today, 800,000 Negroes have been registered in the seven States covered by the 1965 act. More than 50 percent of the eligible Negroes are registered in every State covered by the act. Whatever disparities existed in 1965, these no longer provide a valid justification for applying one law to one section of our Nation, and another to the rest.

Today there is very little difference between the percentage of eligible Negroes registered in, say, Louisiana—a State covered by the 1965 act—and Florida, which is not covered. There are 15 counties in Florida where less than 50 percent of the eligible Negro electorate was registered in 1968, but only 13 in Louisiana. There are dozens of counties in Texas where less than half of the eligible electorate voted in 1968, but only nine in Alabama. The total 1968 voter turnout in South Carolina was proportionately higher in the heavily Negro lowland counties than in the overwhelmingly white Piedmont counties. A higher percentage of voting-age Negroes went to the polls in the Deep South than in Watts or Washington. Little more than one-third of the voting-age Negro population cast 1968 ballots in New York City's Manhattan, the Bronx, or Brooklyn, and this amounted to only one-half the local white turnout ratio. A higher percentage of Negroes vote in Philadelphia and Chicago, where there are no literacy tests, than in majority Negro neighborhoods in New York City and Los Angeles.

There are large numbers of illiterate members of minority groups in most of the big northern cities, and surely these have just as much right to the protection of a Voting Rights Act as citizens in the seven States presently covered. Surely those who have experienced the segregated, substandard education of northern city ghettos have the same right to the protection of the law as citizens of the Southern States.

Mr. Chairman, it is high time that we should correct the glaring inequities of this law. The evidence clearly demonstrates that it would be unjust to the people and unfair to the States to extend the Voting Rights Act, without change, for 5 years. We cannot pretend to believe in the principles of equal rights and equal justice under law if we pass laws which apply to one section of the Nation, but not to the rest. To do so is to perpetuate the most blatant sort of hypocrisy and injustice.

Mr. MONTGOMERY. Mr. Chairman, I feel compelled to speak out against any extension of the Voting Rights Act. The Voting Rights Act was discriminatory when it was passed, has been enforced in a discriminatory manner for the last 4 years, and will continue to be discriminatory unless changes are made in the law. To provide an extension of this infamous piece of legislation without change will only serve as a mockery of justice.

The extension, as reported by the Judiciary Committee, seeks to single out one section of our great country as a scapegoat for so-called past sins that have been committed throughout the land.

If literacy tests are illegal in one State, why should they not be illegal in all 50 States? If this Congress is supposedly trying to protect the voting rights of people in one specific area of the Nation, why not protect the voting rights of all people in all areas of the Nation?

If this Chamber passes the extension of the Voting Rights Act as recommended by the Judiciary Committee, we will be telling the Nation that voter discrimination can continue to flourish in New York, Chicago, California, and other parts of the country, but this same alleged discrimination will be stamped out with the oppressive heel of the Federal bureaucracy in the South. I realize this might be the politically expedient course to follow for some people, but is this the course of equal justice throughout America?

I would urge my colleagues to answer these questions with truthfulness and honesty before they cast their vote.

Mr. ANNUNZIO. Mr. Chairman, the Voting Rights Act of 1965 has begun to change the political picture in the South. It has made it possible for the Federal Government to give effective protection to black Americans' right to vote which the 15th amendment guarantees.

Congress undertook to protect voting rights by the Civil Rights Acts of 1957 and 1960 and by title I of the Civil Rights Act of 1964. All of this legislation was intended to facilitate judicial protection of voting rights. None of this legislation made possible any significant increase in Negro registration and voting in the Southern States because case-by-case litigation in the courts was too slow and because registration officials had ways of circumventing court orders forbidding discrimination.

Congress undertook a different approach in 1965—the approach by administrative instead of judicial enforcement of voting rights. The Voting Rights Act of 1965 takes away from registration officials the power to use literacy tests and

other devices to prevent Negroes from registering. It empowers the Attorney General to provide for the registration of voters by Federal examiners in counties where Negroes still encounter resistance to the exercise of voting rights despite suspension of tests and devices. It authorizes the Attorney General to send election observers to ensure that registered voters are permitted to vote and that their votes are counted. And it forbids States and counties covered by the Act to put into effect any new voting laws without approval of the Federal district court for the District of Columbia or of the Attorney General.

Since passage of the Voting Rights Act of 1965 about 800,000 black Americans have registered to vote in Alabama, Georgia, Louisiana, Mississippi, and South Carolina. Prior to the act, only 29 percent of Negroes of voting age in these States were registered to vote; 52 percent of them are registered today.

And because thousands of new black voters are going to the polls today hundreds of black candidates have been elected to public office in the Southern States. And at the same time white candidates and officeholders will have to increasingly respond to the needs and just demands of Negro voters if they wish to be elected or to stay in office.

In December 1968, Mr. Vernon E. Jordan, Jr., director of the voter education project of the Southern Regional Council, stated:

> Three years ago, just after passage of the Voting Rights Act of 1965, the Southern Regional Council compiled a list of Negro officeholders in the South. The list totalled just over 70 names.
>
> Today, counting some 80 black candidates elected for the first time in the November fifth general election, the list totals over 380 names. The roster thus is more than five times as large today as it was just three years ago.
>
> This dramatic increase is one of the more significant developments in Southern politics today. Not even the fact that five Southern states gave George Wallace his only electoral votes can overshadow the deepening involvement of black Southerners in the region's political process.

By July of 1969, the number of black elected officeholders had increased again from 380 to 473.

It is imperative, Mr. Chairman, that the most essential provisions of the Voting Rights Act—suspension of literacy tests and devices, required Federal approval of new voting laws, Federal examiners, and election observers—remain in effect.

H.R. 4249 as reported by the Judiciary Committee would extend these provisions for 5 more years. Black citizens in the Southern States urgently need to have this Federal protection of their right to vote continued in effect for another 5 years. In its 1968 report, entitled "Political Participation," the Civil Rights Commission has given us extensive evidence of continuing resistance to Negro voting.

The distinguished chairman of the Judiciary Committee, the gentleman from New York (Mr. CELLER), deserves the greatest praise for rejecting, together with a majority of the committee members, proposed amendments to H.R. 4249. A nationwide ban on literacy tests for voter registration is obviously unnecessary. The Voting Rights Act focuses on the Southern States because they alone have disfranchised the Negro. To no longer require States and counties covered by the act to seek prior Federal approval of new voting laws would surely endanger minority voting rights or the effectiveness of minority votes.

Therefore, I urge immediate enactment of H.R. 4249.

Mr. TUNNEY. Mr. Chairman, I urge the adoption of H.R. 4249 without amendment, to extend the ban on literacy tests and other devices for another 5 years, until August 1975, in States covered by the Voting Rights Act. Continuance of this legislation is essential to assure that the right to vote is not denied any citizen on the basis of race or color.

The success of our institutions is critically dependent on our ability to express grievances, and to effect necessary change at the polls. We must make sure that this power is conferred equally on white and Negro voters.

Since 1965, the Civil Rights Commission reports that an additional 740,000 Negroes had been registered in States covered by the Voting Rights Act by the summer of 1968. The gains have been significant, but there are still 176 counties and parishes in six covered States where less than half the voting-age Negroes are registered. In 79 of these areas, less than 35 percent are registered. There is clearly much more to be done.

The most obvious sign of this is the fact that white registration is a much larger percentage of the voting-age population. The Civil Rights Commission reports that 59.4 percent of the voting-age Negroes in Mississippi are now registered, but for whites the figure is 92.4 percent. The proportion of registered whites is 55 percent greater than the proportion of registered blacks. In Alabama it is 45 percent greater. In Georgia it is 51 percent greater. In Louisiana, the discrepancy is 57 percent. We must continue our efforts to close these gaps.

Several States covered by the act have devised new techniques to forestall the election of Negro-supported candidates, and to prevent Negroes from effectively exercising their vote. Such devices have ranged from increasing filing fees to extending terms of office of white incumbents. They have included making certain offices appointive or abolishing them entirely, to avoid election of Negro candidates. In some instances information concerning election requirements has been withheld. Where Negro voting strength has grown, at-large elections and consolidated districts have been proposed to dilute black voting power. Last spring the Attorney General faced the necessity of objecting to three amendments to the Mississippi election laws which would have made it tougher for independents to run, and which would have permitted appointment or at-large election of certain officials.

The present Voting Rights Act prohibits States and counties from making any changes in their voting laws, without first obtaining the approval of the Attorney General or the District Court for the District of Columbia. The Supreme Court has made clear that private parties can challenge the enforcement of new local voting laws which have not been submitted as required by section 5.

This protection is the crux of the Voting Rights Act. Before 1965, the Attorney General had the power to sue to enjoin discriminatory voting laws. This method of enforcement proved to be a slow, expensive, and ineffective way of extending to Negroes the right to vote which, supposedly, they were given in 1870. Department of Justice attorneys expended as many as 6,000 man-hours in a single case to achieve minimal results.

Modifications in the Voting Rights Act proposed by the administration would scrap section 5. Despite the rhetoric of the administration proposals, emphasizing uniform national standards for literacy tests, residency, and the dispatch of Federal voting examiners, the plain purpose is to eviscerate the Voting Rights Act. If the burden is placed on the Justice Department to identify new forms of discrimination and to send teams of attorneys into the field to litigate a Negro's right to vote, protection will be uneven and slow in coming. I recall the remark of the Assistant Attorney General for Civil Rights to the effect that he did not have the manpower to go out and enforce full and immediate school desegregation, even if the Supreme Court ordered it. If that is the case, the Department of Justice certainly lacks the manpower to take on new responsibilities to attack a host of new voting laws in the South. I believe strongly that we must retain section 5 in its present form, and require States and counties to clear in advance any proposed amendments to election laws.

It is noteworthy that although changes in election laws have been attempted since the passage of the Voting Rights Act, no State has moved to repeal its literacy test, the discriminatory effect of which the act was designed to prevent.

The administration's suggestion that literacy tests be banned across the Nation, and that residency requirements be uniform, may be good ones, but I cannot see how they have a place in the pending legislation. The Voting Rights Act is directed at the eradication of racial discrimination in voting. Use of literacy tests outside the South has not been the subject of complaints of voting discrimination on the basis of race. Similarly, residence requirements have not been shown to be techniques for depriving Negroes of their franchise.

These subjects should be raised and debated in separate legislation. In the meantime, we should not hesitate in reaffirming the purposes of the Voting Rights Act of 1965. I urge others to join me in voting for a simple 5-year extension of that act.

Mr. BRASCO. Mr. Chairman, I rise in support of the extension of the Voting Rights Act of 1965 for another 5 years. This act was designed to enforce the 15th amendment to the Constitution and to alleviate blatant discrimination in our country's electoral process.

Prior to the passage of the Voting

Rights Act of 1965, a succession of legislative and judicial pronouncements had proven totally ineffective to deal with historic and deep-rooted voting denials. The case-by-case litigation approach mandated in the 1957 act was met by massive State and local resistance. Certain States initiated new procedures designed to block any gains made through judicial decision. Most common among these procedures was the racially discriminatory use of literacy tests.

The key provisions of the 1965 Voting Rights Act are—

The suspension of tests and devices as registration requirements in certain covered jurisdictions where there is causal relationship between their use and the denial of the right to vote.

The prohibition against enforcement in covered jurisdictions of new voting regulations without Federal approval.

The assignment of Federal examiners in covered jurisdictions to list qualified applicants for voting and monitors for elections.

Mr. Chairman, the proof of the effectiveness of these provisions lies in the nearly 2 million Negro voters who were added to the election rolls in the South, in the 463 elected Negro officeholders, and in the many changes which have taken place as a result of greater participation by Negroes in the political life of our communities, cities, States, and Nation.

All who shaped and supported the 1965 act can rightfully point with pride to one of the great legislative accomplishments of this decade. The passage of that act was as politically and morally correct then as it is now.

Mr. Chairman, that is why I urge its passage intact, and oppose the administration's substitute bill which I believe to be weaker.

While I do agree with the administration that general electoral reforms are long overdue, I do not believe they should be tied to the extension of the voting rights bill because the effect would be to dilute and confuse the enforcement of 15th amendment rights with general reforms based on other considerations.

Mr. HELSTOSKI. Mr. Chairman, it is my firm opinion that if we fail to approve H.R. 4249, which provides for a 5-year extension of the Voting Rights Act of 1965, we will be doing a grave disservice to our people and their Government.

H.R. 4249 is a good and necessary bill. To the contrary a bill sought by the administration, H.R. 12695, is an unnecessary and weak bill. It would drive us many steps backward in the moving effort to give people in certain areas of the Nation a right so long denied to them. It is the right to vote.

Countless testimony has been given to bear out what I have said and none has been more compelling than that presented to the House yesterday by the Reverend Theodore H. Hesburgh, president of Notre Dame University and Chairman of the U.S. Commission on Civil Rights, through the gentleman from Indiana (Mr. MADDEN).

I expect that all of us have received similar letters from Father Hesburgh, and I would suggest that we all read and reread his views on the legislation we are considering and his report on the good that has come from the Voting Rights Act of 1965.

Father Hesburgh has made a strong and compelling case for enactment of H.R. 4249, and it is my hope that we will approve it by an overwhelming majority.

Mr. THOMSON of Wisconsin. Mr. Chairman, the facts about voting in the cold light of December 1969 are very different from those of the hot summer of 1965 when voting rights was last considered here. The gains have been impressive. Pursuant to the 1965 act the Department of Justice has sent examiners and observers into 64 counties in the South. Since August 6, 1965, when lliteracy tests were suspended, over 800,000 Negro voters have been registered in the seven States covered by the act. More than 50 percent of eligible Negro citizens are now registered in every Southern State. More than 375 voting laws have been submitted to the Attorney General for approval. Four hundred blacks have been elected to State and local offices throughout the South.

These are all real gains for minority citizens who before 1965 had never had the opportunity to vote or hold elective office. The 1965 act works; more than 4 years of experience with it proves that. But it is not perfect. That is why I resist the effort to simply extend its life until 1975. Why not expand its coverage, strengthen its enforcement machinery, cure its defects? I say there is no reason why not. And that is why I support the amendment now under consideration. It is a carefully considered package which would do all the things I have suggested.

Primarily, it will blanket the Nation with the same protection the present act reserves for one region. Why should minority citizens in Harlem and Watts or Roxbury or Hartford be denied the same protection as blacks in Alabama or Georgia? They should not. No one can argue the opposite. The amendment will see that they are not: Literacy tests will be banned nationwide, voting observers and examiners will be able to function in all 50 States, voting rights suits will be able to be brought in any Federal district court. These are all constructive and desirable reforms that the amendment will accomplish which the committee bill would not.

Now is the time to make these reforms, not 5 or 10 years from now. The 1965 act has started the momentum for action which these amendments will carry out. We are not scraping the tested provisions of the old law as some have suggested, we are adding to them new ones which will guarantee to all the rights set forth in the 15th amendment.

The amendment proposes useful, workable reforms which this Nation needs. The President and the Attorney General have suggested a sound approach to voting rights reform. Those proposals, embodied in the amendment now under consideration, deserve the support of everyone in this body. They have mine.

Mr. RHODES. Mr. Chairman, I urge adoption of H.R. 12695, the nationwide voting rights bill.

This bill would give nationwide protection to the right to vote. Its coverage would not be limited to the States and counties covered by the 1965 act.

I wish to comment specifically on one provision of H.R. 12695, which would make an important change in our national voting laws. Under this bill, no residency requirement could be applied in an election for President and Vice President. A person otherwise qualified to vote who has resided in a State since September 1 of the election year would be permitted to vote in that State. A person changing his residence after September 1 would be permitted to vote in the State from which he moved.

This is a key provision. In my view, there is absolutely no justification for imposing State and local residency requirements with regard to presidential elections. The U.S. Bureau of the Census estimates that in the 1968 presidential election more than 5.5 million persons were unable to vote because they could not meet local residency requirements.

This is manifestly unfair. These residency requirements deprive a large segment of the population of its right to express its wishes as to the man who will lead the country.

I can understand that a residency requirement might be reasonable for local elections. It would give the new resident sufficient time to familiarize himself with local issues. But there is no need for a residency requirement in presidential elections. The issues in presidential elections are nationwide in scope and the issues are widely disseminated on a nationwide basis. The fact that a person moves from one State to another has no bearing as to whether he can intelligently vote for President and Vice President.

The U.S. Supreme Court recently refused to rule in a case challenging the constitutionality of State residency requirements for voting for President. The name of that case is Hall against Beals. Since the Court has not decided the matter, it is up to the Congress to pass legislation which would remove this inequity and give all of the people in this country the right to vote for President.

Mr. BROWN of Ohio. Mr. Chairman, in recent years many efforts have been made to overcome so-called sectionalism in our country. To make us what the pledge to the flag says one Nation under God, indivisible, with justice for all.

But sometimes we lose sight of that goal.

Certainly that was a problem in the otherwise needed Civil Rights Act of 1965 and that will be the case to a greater degree now if we simply extend it.

Mr. Chairman, we cannot make this one nation, indivisible, if we deliberately divide it by saying in some places we will insure the rights of voters, but in other places we will not.

Mr. Chairman, where is the "justice for all" if we say to those who live in the South, "we will insure your right to vote," while we say to those in the North and the Midwest and the West, "your right to vote is not important."

Regardless of the well-meaning intention of those supporters of the judiciary bill to right wrongs in the South, it is equally important to right wrongs elsewhere.

That is what the nationwide substitute

offered by the minority leader, H.R. 12695 seeks to do by insuring nationwide equal voting rights for all our citizens.

Mr. Chairman, in the name of equality and justice we can do no less. We have confidence that the administration will diligently administer 12695 with even-handed justice throughout America.

Mr. DONOHUE. Mr. Chairman, I most earnestly urge my colleagues here to, and I hope they will, promptly and overwhelmingly adopt this measure before us, H.R. 4249, to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices, without any crippling changes or extended delay.

Mr. Chairman, we all remember the Voting Rights Act of 1965 was designed to enfrancise millions of citizens who had not been able to secure their 15th amendment rights under prior congressional enactments. Congressional efforts in 1957, 1960, and 1964 to banish racial discrimination in voting proved seriously inadequate. Federal remedies took the form of expedited Federal court litigation, but court orders were ineffectual in overcoming massive and widespread violations of the 15th amendment. Intransigence and dilatory tactics largely neutralized the litigating effort of the Federal Government. By 1965, it was conclusively demonstrated to the Congress that exclusive reliance on judicial remedies had cost aggrieved parties an inordinate amount of time and effort. Litigation was time consuming and the progress it yielded in 8 years, from 1957 to 1965, was insignificant. For example, during this period Negro voter registration had only risen 2.2 percent in Mississippi. An effective Federal solution was imperative.

The Voting Rights Act of 1965 was the Federal response. Based upon the experience of the past 4 years, it is my judgment that the act has been a marked success. Over 1 million Negroes have become enrolled voters for the first time.

Four hundred Negroes today hold local and State legislative office in the States of Alabama, Georgia, Louisiana, Mississippi, South Carolina, North Carolina, and Virginia, where 4 years ago the number was insignificant.

Although the act has made dramatic progress possible, the records of the U.S. Commission on Civil Rights indicate that the gains are "fragile" and the protections of th 1965 act must be continued if we are to secure the gains made thus far.

The administration, through Attorney General Mitchell, is now offering an alternative proposal to eliminate the "regional" character of the 1965 act. We should not support efforts to weaken or dilute the effective provisions of the Voting Rights Act. Instead, we should endorse a simple extension of 5 years of the Voting Rights Act as presently constituted.

I am pleased to note that Father Theodore M. Hesburgh, president of Notre Dame University, and Chairman of the U.S. Commission on Civil Rights, similarly endorses an extension of the Voting Rights Act. I share his view that a continuation of the effective voting rights protections contained in the 1965 act remain essential to make the promise of the 15th amendment a reality.

Mr. CLAY. Mr. Chairman, during the debates on extension of the Voting Rights Act of 1965 the Members of this House will hear—and have heard—many arguments for and against this excellent piece of legislation. The Voting Rights Act has been a most effective law in terms of delivering what it promises—the right to register and to vote as guaranteed by the 15th amendment. But, I want to remind the Members that in less than 9 months the 800,000 black voters registered under the 1965 act face the specter of the return of white supremacy at the voting registrar's office.

On August 6, 1970—next summer—the States and counties now covered by the Voting Rights Act will have no further legal obligation to adhere to this law. When that day arrives, Mr. Chairman, if we do not extend the life of this act, we will see the return of Mississippi's infamous constitutional interpretation literacy test—which is still on the books in that State. We shall see the purging of black voters from the rolls through wholesale reregistration of voters. We shall see ingenious State legislatures, county boards, and city councils invent new ways to disfranchise black voters by changing election laws, by developing new procedures, by drawing political boundary lines, by devising new methods of electing various officeholders, unchecked by the powers of the Attorney General as provided in section 5 of the Voting Rights Act.

In 95 years the advocates of white political supremacy have not yet exhausted all the ingenious tricks and devices at their command to keep black folk from voting. The Voting Rights Act of 1965 with all its strong provisions was the only—and I repeat—the only time white supremacy in the registrar's office and at the polling places was stopped and the only time in our history that guarantees of the 15th amendment were given full effect.

We have fought hard for that act. As Federal Judge Leon Higginbotham said last Monday, "When one has been on the receiving end and deprived of rights it gives you a different perspective than one who has not had to fight for them."

The Voting Rights Act of 1965 was the direct result of a great upsurge of moral indignation in this country, 7 years of litigation by the Justice Department had produced only 36,000 new black voters on the rolls. Black people and white people had died attempting to register or for their efforts in urging black people to register. Only after Dr. Martin Luther King crossed a bridge at Selma, Ala., was the act passed. Within weeks, thousands of black voters were on the registration rolls. The numbers grew to over 700,000. Today, over 3 million blacks are registered in the South. There are 463 black officeholders

We cannot permit this progress to be reversed. There are still 3½ million black people in the South not registered. The Voting Rights Act of 1965 must be extended with all of its protective provisions intact for another 5 years.

The Voting Rights Act must not be diluted, must not be confused in its purpose to enforce the 15th amendment where it needs enforcing—in those States and counties covered by the act. I think the Members of the House should be reminded that the people who complain most bitterly about the Voting Rights Act of 1965 are the same people who most bitterly resisted the honest, peaceful, legitimate, efforts of black men and women to register under the laws of those States—as those laws were written. They were willing to interpret Mississippi's infamous constitution. They were willing to demonstrate their literacy, but those States and counties by their perversion of fair democratic process demonstrated their intent to prevent any black man or woman from registering. White grade-school dropouts, serving as registrars repeatedly denied black doctors, black lawyers, and black Ph. D's the right to vote by declaring them illiterate.

Since the courts could not protect the right to vote, Congress stepped in and did the job. History and experience show that the protections of the Voting Rights Act must be continued for another 5 years.

Mr. STEIGER of Wisconsin. Mr. Chairman, today we are debating one of the most crucial questions we have faced all session. If this Nation is to be truly democratic then every one of our citizens must be afforded the chance to choose for himself those who shall govern. Lord Holt, the famous British jurist, once called the franchise "a most transcendent thing." All in this Chamber, I know, agree with him.

To see that the franchise is given to all in this Nation is that task we should set for ourselves today. The 15th amendment made a start toward this goal; the 1965 Voting Rights Act made it a reality in some States. Today we have the opportunity to complete the task. The vehicle for this is the amendment now on the floor. It would extend to all the tested protection the 1965 act reserves for a few.

Basically, this is a nationwide version of the 1965 act. The ban on literacy tests is extended from eight States to 50, the power to send Federal voting examiners and observers is made national not regional, the Attorney General is given nationwide power to institute voting rights suits and void discriminatory voting laws, residency requirements are severely limited, and a Voting Rights Commission is created to look into all the facts on this subject and make recommendations for permanent legislation.

The amendment would provide a package of cures for disenfranchisement rather than simply extending the old law for an additional term. The amendment is constructive and innovative, building on the experience of the 1965 act; the committee bill is static and unresponsive, adding nothing new to the legal ability of the Justice Department to attack violations of the 15th amendment.

While I strongly endorse the entire amendment, I think section 2(b) is of vital importance.

Millions of people in the United States change their residence each year. Any legislation dealing with voting rights must face the problem of insuring that these people are eligible to vote. Accord-

ing to the Bureau of the Census, in 1968 more than 5.5 million citizens were unable to vote because they could not meet residency requirements prior to election day.

A residency requirement may be reasonable for local election to insure that the new voter has sufficient time to familiarize himself with local issues. But such requirements have no relevance to Presidential elections where issues and news coverage is nationwide. How can we permit the stationary citizen his role in national elections, while denying it to those who exercise their right to move freely from one area to another? The answer is that we should not.

Section 2(b) provides that a citizen otherwise qualified to vote under the laws of a State cannot be denied his vote for President and Vice President in that State if he resided in the State since September 1 next preceding the election If he changes his residence subsequent to September 1, his vote is protected in the State from which he moved.

This section—along with all the other portions of the amendment—are vital pieces of legislation which will bring to millions a vote they are not now permitted to exercise. The amendment builds on the 1965 act, it improves, it strengthens it. I support the amendment fully; I hope a majority of the Members of this body agree. This is a good proposal and a fair one. It deserves our approval.

Mr. FOUNTAIN. Mr. Chairman, we are not debating what is described as a 5-year extension of the so-called Voting Rights Act. This is not precisely accurate. The Voting Rights Act of 1965 is composed of 19 sections, 17 of which are permanent legislation. Only two sections of the act—sections 4 and 5—will expire or become inoperative on August 5, 1970.

So what we are really debating is the extension of sections 4 and 5 of the Voting Rights Act.

Equal justice under the law, however difficult to achieve, has always been a high and shining ideal of our land, but if the Ford amendment is not passed, you will ensure that only the same few States in the South will be subject to this law, while the vast majority are not.

Notwithstanding the professed high purpose of extending the act in its present form, allegedly to protect the right of every qualified voter to vote—the result will be discriminatory against most of the Southland.

Let me say that, of course, every qualified voter should have the right to cast his ballot for anyone he chooses. This is a fundamental right, guaranteed by the Constitution. No thinking person would dispute that fact.

However, I am opposed to the extension of this act in its present form. It presumes that we in the South have been guilty of discrimination without even a semblance of a trial. But, the question now is not whether the Voting Rights Act of 1965 was proper and necessary legislation. I do not think it was necessary, but our unusual Supreme Court has said that the act is constitutional. For the life of me. I cannot understand how intelligent and responsible men could have reached such a decision. Nonetheless, they did.

The basic question now before us is whether or not to enact the so-called Ford amendment which would, to a substantial degree, right a terrible wrong done when the existing act, applying primarily to the South, was passed.

The Ford amendment has already been ably explained by a number of speakers ahead of me, including in particular the distinguished gentleman from Virginia (Mr. POFF). It provides for equal treatment of all 50 States under the law. While extending the existing law to all 50 States, it also includes other provisions which place the burden of proof upon the Federal Government to determine whether or not discrimination exists in a specific case. No longer will a State have the impossible task of proving a negative—that it has not discriminated against voters.

In other words, my people will no longer be presumed guilty of discrimination because less than 50 percent of them were registered, or voted in the 1964 presidential election. That so-called triggering device, grossly unfair to the South, will be eliminated. If there is discrimination or election fraud anywhere in the Nation, the Attorney General will have the right to initiate voting rights lawsuits to challenge the so-called discriminatory laws and practices.

Why should we not extend the coverage of the entire act to all 50 States. If the results of the act have been salutary, then let all Americans have the benefit of the same legislation. Otherwise, this Congress will be guilty of the same rank discrimination which it has too long in too many ways, practiced against the people of the South.

If the Ford amendment is not adopted, or if other appropriate amendments making the law applicable to all States alike are not adopted, then it would appear to me entirely reasonable and proper to let sections 4 and 5 of the original Voting Rights Act of 1965 expire in 1970 as per its own terms.

Why should we extend section 4 for another 5 years when it penalizes a State simply because fewer of its citizens chose to participate in the general election of 1964. The 1964 election returns used as the basis for figuring are completely outdated by now.

I would like to point out that many more North Carolinians turned out to vote in 1968's presidential election than they did in 1964—the base year in the original act. As a matter of fact, 162,000 more people voted in North Carolina last year.

Why should 39 counties in North Carolina continue to be forced to remove all reasonable voter qualifications while 61 other Tar Heel counties are unaffected?

Why should we extend section 5 of the act when it serves no other purpose than to center judicial authority for one special law in one place—Washington, D.C.?

Why should States which have already received whatever salutary effects the original congressional backers intended be forced to add more cases to the judicial overload which already exists in the Nation's Capital?

Mr. Chairman, the existing law is punitive and discriminatory against all of the people I represent. It questions their integrity and fairness, and reverses the traditional presumption of innocence provided under our laws. Without a hearing, it finds 39 counties in my State guilty of discrimination and 61 not guilty. Is this really America?

In short, let us make this act applicable nationwide or let us leave it alone and let it expire. Only by so doing will we be taking the proper course. Even the Ford amendment will not make the legislation satisfactory, but it will be treating all States alike. For this reason, and because it is the only way to prevent extension of this law in its present discriminatory form, I support the Ford amendment.

Mr. LEGGETT. Mr. Chairman, the right to vote, the right to select our own leaders, is the most fundamental of all rights in our free, democratic system of government. It is a right which Thomas Jefferson described as the "ark of our safety."

It is a right which indisputably must be extended to every American citizen. The 15th amendment of the Constitution provides:

> The right of the citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color or previous condition of servitude.

It directs that—

> Congress shall have the power to enforce this Article by appropriate legislation.

A century after the passage of this amendment many of our fellow citizens are still being unconstitutionally disenfranchised because of their race and color.

Prior to the adoption of the Voting Rights Act in 1965, the Congress passed "appropriate legislation" six times trying to eradicate this deep and unjust flaw in our American democracy. None of these Federal enactments were effective.

The passage of the Voting Rights Act finally gave the Federal Government a good, strong law to help end discrimination in our land. It gave the Federal Government the requisite power to intervene in States, localities, and counties where voting rights have been manifestly denied Americans.

It was designed to deal with the principal means State and local governments had used to frustrate the effective implementation of the 15th amendment.

At the core of the Voting Rights Act—and the key to its effectiveness—is its automatic trigger. These provisions suspend the use of literacy tests and other devices in any jurisdiction in which less than 50 percent of the persons of voting age residing therein were registered on November 1, 1964, or that less than 50 percent of such persons voted in the 1964 presidential election.

Such tests and devices were to be suspended unless it could be shown in a declaratory judgment proceeding that, during the preceding 5 years they had

not been used to deny or abridge the right on vote on the grounds of race or color. No such declaratory judgment could issue, however, with respect to any plaintiff for 5 years after the final judgment of any Federal court had been entered—other than the denial of a declaratory judgment—determining that denials or abridgements of the right to vote on account of race or color through the use of such tests or devices have occurred anywhere in the plaintiff's jurisdiction.

Mr. Chairman, I am satisfied that this Act has passed the important test of constitutionality and stands as a milestone in enfranchising all Americans.

In *South Carolina* v. *Katzenbach,* 383 U.S. 301 (1966) the U.S. Supreme Court sustained the Voting Rights Act as a valid means of effectuating the commands of the 15th amendment. Its comments underscore the rationale of the legislation:

> Congress had learned that substantial voting discrimination presently occurs in certain sections of the country, and it knew no way of accurately forecasting whether the evil might spread elsewhere in the future. In acceptable legislative fashion, Congress chose to limit its attention to the geographic areas where immediate action seemed necessary.

Under its terms, the Voting Rights Act presently affects the voting qualifications and practices of the following jurisdictions: The States of Alabama, Georgia, Louisiana, Mississippi, South Carolina, and Virginia; and Yuba County, Arizona; Honolulu County, Hawaii, and 39 counties in the State of North Carolina.

Since enactment in 1965, 64 counties or parishes in five States have been designated for the appointment of Federal voting examiners who are authorized to list qualified applicants to vote. Federal election observers, who can be assigned under the act only in counties designated for examiners, have served in five elections in Alabama, two in Georgia, 10 in Louisiana, 12 in Mississippi, and five in South Carolina. The presidential election of November 1968, the only such election held under the Voting Rights Act, witnessed the assignment of some 530 Federal observers in 24 counties and parishes in Alabama, Georgia, Mississippi, Louisiana, and South Carolina.

Negro registration in the five States where Federal examiners have been appointed—Alabama, Georgia, Louisiana, Mississippi, and South Carolina—has risen from approximately 29 percent to approximately 52 percent of the Negro voting-age population. This rise in nonwhite registration has been accompanied by an increase in Negro voting participation and in the number of Negro officeholders and legislators. Although registration progress has been dramatic under the act, especially when compared to registration gains achieved under earlier voting rights legislation, significant disparities continue between white and nonwhite registration in areas covered by the act.

I urge the renewal of the Voting Rights Act for a period of 5 years. I support the passage of H.R. 4249. Much has yet to be done.

Resistance to progress in enfranchisement of qualified Americans has been far more subtle and far more effective than we have thought possible. An amazingly ingenious arsenal of barriers to circumvent the basic right to vote has been created and perfected:

Legislative districts have been racially gerrymandered.

The terms of office of incumbent white officers have been extended.

Elections have been switched to an "at large" basis.

Counties have been consolidated.

Full-slate voting has been instituted.

Elective offices have been abolished where Negroes had a chance to win.

The appointment process has been substituted for the elective process.

Negro poll watchers have been excluded and interfered with.

There has been a refusal to provide or allow adequate assistance for illiterate Negro voters.

Election officials have withheld necessary information for voting or running for office.

Bonding companies have been reluctant to bond Negroes who had managed to win an election.

There has been discriminatory purging or failure to purge voter lists.

There has been discrimination in the selection of election officials.

There has been disqualification of Negro ballots on technical grounds.

There has been harassment of Negro voters, poll watchers, and campaign workers.

There has been a host of physical and economic intimidations.

In urging the extension of the Voting Rights Act of 1965, I must also urge my colleagues to vote down any and all amendments which will be offered to amend its provisions.

An amendment to substitute a Nixon administration bill will be offered today. It has been characterized as "a sophisticated but nonetheless deadly way of thwarting the progress we have made." This Justice Department bill has not fooled Representative WILLIAM MCCULLOCH, ranking Republican on the House Judiciary Committee and a stalwart champion of civil rights who said he favors a simple extension of the present law.

I also support this simple extension.

Mr. ROTH. Mr. Chairman, it has been said that "the ballot box is the great anvil of democracy, where government is shaped by the will of the people."

The right to vote is an essential right. Under our Government of, by, and for the people, the right to vote is perhaps the most basic right of all.

Many of our citizens, unfortunately, have been denied this right by any number of means. The voting rights bill of 1965 has made tremendous progress in removing these unjust barriers, and has given means of political influence to people too long denied them. It is essential, then, Mr. Chairman, that Congress extend the Voting Rights Act. It would be unconscionable to retreat on the promise of full participation in our political processes, a promise implicit in the Voting Rights Act of 1965.

In addition, I urge that the Congress eliminate residency requirements as a barrier to voting for the President and Vice President. I firmly believe that each State should have the right, within the limits of the Constitution, to establish voting requirements for State and local elections. At the same time, I am concerned that an increasing number of our citizens are disfranchised from voting in the presidential elections because of increased mobilization of our population. It is estimated that approximately 5½ million Americans are denied the right to vote for the President because they have moved from one State to another. There are, of course, good reasons why a new resident might not have familiarity with State or local conditions and candidates, but the same considerations do not apply to a presidential election.

Mr. Chairman, to deny one the right to vote not only limits our democracy but diminishes our concept of citizenship. The sense of belonging and of participating is a vital aspect of such citizenship.

Because the right to vote is so essential to the future of America and for all our citizens, I urge Congress to vote immediately to extend the Voting Rights Act of 1965. Let us do our part to see that all enjoy the full benefits of democracy, for it is through the ballot box that democracy draws its strength, renews its processes, and assures its survival.

Mr. BUCHANAN. Mr. Chairman, I rise in support of the Ford substitute and in opposition to the committee bill to extend the Voting Rights Act of 1965. A simple extension of the 1965 Voting Rights Act would mark the continuation of a double standard of Federal law, against which I testified before the Judiciary Committee prior to its original passage and which I continue to oppose.

It would not be right to use one measuring rod in New York and an entirely different one in Alabama; to have one system of weights and measures in Illinois and another in Mississippi, and to have the above required by Federal law. It is equally wrong to have one standard for the registration of voters required in only seven States with the other 43 exempt from such requirements. As the law now stands a person registered to vote in my district under the requirement of Federal law could well be immediately disenfranchised upon moving to New York because he could not pass the literacy requirements of that State.

The Ford substitute would make the law apply equally to all the States. Under the 1965 act the officials of the seven States affected are in the position of being guilty until their innocence is proven. The Ford substitute would follow the traditional American system of assumed innocence until guilt is proved.

Through the years there have been many instances of alleged irregularities in elections certainly not confined to any region of the country. The President's proposals, as placed before the House by the distinguished minority leader, would provide a means for appropriate Federal action to combat such corruption all across the Nation.

It is strange that anyone can still believe that problems of Negro rights, discrimination, and desegregation are confined to the South in our time. The worst civil disturbances have been in non-

Southern cities. Resistance to open housing is apparently as strong in Chicago as in the South. Resistance to school desegregation apparently exists wherever there is a large concentration of nonwhite population. There is ample evidence of discrimination outside the South in the above, in employment practices, and in other fields. While not as open and above board as the old segregation laws of the South, widespread discrimination has existed in more subtle and sophisticated ways which have had substantially the same end results.

There is evidence that while five of the seven States covered by the 1955 act would no longer fail to meet the standards of voter registration and participation established by that act, were today the effective date on which the formula was applied, there are ghetto areas and in some cases whole counties which could not meet the requirements of the formula should it be applied to the other 43 States. Nor is it to my mind a decisive argument, even if it be true, that the problem of voting rights has been greatest in the South. The problem of organized crime is far greater in Chicago and New York than in Birmingham. Yet when we pass legislation to combat organized crime, I would be the first to oppose a bill which applied only to Chicago and New York and did not attempt to meet whatever problem might exist in the present or future in my own city or State. When it comes to voting irregularities there are those who allege that there have been difficulties even in the great State of Texas, which is exempt from this act in spite of some 16 or 17 counties in that State which failed to meet the requirements of the formula in 1965. Voting irregularities have even been alleged to occur within at least one county of the great State of Illinois. I favor law which would combat this evil everywhere and all the time.

Mr. Chairman, we have on Constitution and one Bill of Rights. The Constitutional rights of a citizen of this Republic cannot lawfully be abrogated by a government at any level in any State of this Union. The constitutional rights of the people compose the very heart of the Constitution. Censequently, it is the duty of the Congress to work toward the protection of these rights in all 50 of the States. The 15th amendment to the Constitution provides that:

> The right of citizens of the United States to vote shall not be denied or abridged by the Unied States or by any State on account of race, color, or previous condition of servitude.

It further states that—

> The Congress shall have the power to enforce this article by appropriate legislation.

I fully support the purposes of this amendment. If legislation is, therefore, deemed necessary to protect the voting rights of American citizens guaranteed by this amendment let it be truly national legislation which protects all the people and the people in every State.

Mr. BINGHAM. Mr. Chairman, I rise in support of H.R. 4249 as reported out by the House Judiciary Committee, which provides for a 5-year extension of three key provisions of the Voting Rights Act of 1965.

I am strongly opposed to the proposed administration substitute which I believe substantially weakens the three key remedies for abolishing discrimination in voting set up by the Voting Rights Act of 1965. Though on the surface the Administration proposal seems to work toward the lauditory goal of extending the remedy provisions nationwide, upon closer scrutiny it has the practical effect of diluting and even crippling the effort to abolish discrimination in voting where it is needed most.

First of all, the administration substitute proposes a blanket nationwide ban on literacy tests and similar devices until January 1, 1974. The literacy test question is an extremely complex one. In some States such as my own State of New York, a minimal literacy test has been proved necessary in dealing with large cultural groups whose main language is other than English. The literacy test ban question has been hotly debated in the past and should be considered separately on its own merits. Tacking a literacy test ban onto this bill severely jeopardizes the passage of the Voting Rights Act extension.

The literacy test ban provision as it now stands in the Voting Rights Act of 1965 applies only where a causal relationship can clearly be shown to exist between use of a test and low nonwhite voter participation. In seven States in the South, such a relationship has been shown; there is no evidence that this situation exists elsewhere. If evidence were to emerge in the future that use of literacy tests and other devices in other States are discriminatory under section 3 of the Voting Rights Act, the Attorney General has the authority to bring suit to enforce the 15th amendment. So a nationwide literacy test ban is essentially unnecessary.

The administration substitute also proposes to extend the use of observers and examiners nationwide. Again I ask, where is the evidence that there is a need other than in the seven Southern States?

Testimony of Clarence Mitchell of the NAACP, and officials of the voter education project of the Southern Regional Council before the House Judiciary Committee clearly indicates that the problem of disenfranchisement of minority groups in the South still has not been solved. The Votings Rights Act of 1965 went a long way in correcting voting discrimination, but a continued concentrated effort is still needed there. If the administration were sincere about ending voting discrimination nationwide, it would need a great deal of money and manpower to discover the relatively few, minor instances of disenfranchisement outside the seven Southern States. With the Vietnam war and the inflationary situation, those resources are not available. So the ultimate effect of this provision will be to take the pressure off the South and, through lack of examiner and observer manpower, let it drift back to pre-1965 practices. We cannot let that happen.

The administration provision for a Presidential Commission to study voting discrimination and corrupt voting practices can be quickly dismissed by quoting my distinguished colleague, the gentleman from Ohio (Mr. McCULLOCH) who asked at the hearings on this bill why the Civil Rights Commission cannot perform the same task at lesser expense?

The administration substitute proposes uniform residency requirements. Again, this is lauditory on the surface and in principle, but I suggest this is not the proper time to consider the question in light of the residency requirement case now pending before the Supreme Court questioning the constitutionality of such State laws. After the case has been decided will be the proper time to consider this important issue separately. It is a controversial issue affecting long held State perogatives and its consideration now could also jeopardize the passage of H.R. 4249.

Finally, the most damaging provisions of the Administration substitute—the elimination of preclearance requirements. This provision would critically weaken the Voting Rights Act by shifting the burden of proof to the Government in evaluating electoral legislation cleverly designed to thwart Negro voting. It would mean a return to dependence upon the slow litigation process which has shown to be so ineffective and regressive in the past.

In 1965, I enthusiastically supported the original voting rights legislation, noting that "in the achievement of equal opportunities nothing is more important than the guarantee of the franchise." I feel obligated to oppose any amendment to the Voting Rights Act which will subvert this American goal or make it more difficult to achieve.

Mr. GILBERT. Mr. Chairman, I heartily endorse the Judiciary Committee's bill to extend the Voting Rights Act of 1965 by 5 more years. I endorse it because it is right and because it is one of the pieces of legislation enacted during the last administration whose effectiveness has been demonstrated over and again. In the six States fully covered under this legislation, Negro registration has increased from 877,000 in 1965 to 1.6 million today. In the areas covered by the act, nearly 400 black officials have been elected. What these figures demonstrate, Mr. Chairman, is that the democratic process has at last been made available to a substantial body of Americans to whom it was so long denied. We cannot ignore that achievement.

I think it would be highly injurious to weaken the enforcement provisions of the 1965 act, as the administration's bill proposes to do. It would be a step backward in civil rights. Therefore, I am going to vote against the administration substitute bill.

Mr. MANN. Mr. Chairman, may I preface my remarks by stating that I feel that any legislation we enact must encourage as many citizens as possible to vote and must discourage the application of unreasonable legal requirements. As I understand it, this is the position of the administration and, for that matter, was the intent of the Voting Rights Act of 1965.

I must take issue, however, with my fellow Judiciary Committee members in

approving 5-year extension of the Voting Rights Act of 1965. The 1965 act provided for suspension of literacy tests and devices in States and counties where such tests were utilized and where less than 50 percent of the total voting-age population was registered to vote or voted in the November 1964 election. The effect of that legislation was to declare invalid the literacy requirements of Mississippi, Louisiana, Alabama, Georgia, South Carolina, Virginia, and 39 counties in North Carolina. Some 13 States, including Connecticut and New York, which have literacy tests were exempted because they met the 50-percent requirement. Likewise, States such as Arkansas and Texas, which fell short of the 50-percent requirement but had no literacy tests, were exempted. States such as North Carolina, which had an overall average of 51.8 percent but had counties which fell under the 50-percent figure, came under the 1965 act because it had a literacy requirement, whereas States like Tennessee, where 22 out of 95 counties had less than 50 percent, were exempted due to the absence of a literacy test.

Is discrimination on the basis of literacy more acceptable in Connecticut and New York than it is in Louisiana or South Carolina? Or, as my colleague from Alabama (Mr. ANDREWS) inquired:

> If a moron is going to be permitted to vote in Alabama, why shouldn't a moron be permitted to vote in New York?

In 1966, 21 persons in the town of New Haven, Conn., and 574 persons in New York were disenfranchised because they failed to pass literacy tests. Due to the discriminatory nature of the Voting Rights Act of 1965, these same so-called illiterates, having otherwise met local residency requirements, could have registered to vote in Louisiana or South Carolina. While I grant that these figures are not significant quantitatively speaking, they do illustrate a principle; namely, that the Voting Rights Act of 1965 sanctions disenfranchisement for reasons of illiteracy in some States, while condemning it in others. It also implies that the seven affected States are guilty of using their literacy tests to deny nonwhites the right to vote, while the other 13 States having literacy tests are supposedly innocent of any such implication.

I have listened with some amusement to those who argue that this act is not regionally discriminatory. They say that the act is nationwide in scope, and that it just so happens that the statistics of the formula resulted in its application to the seven Southern States. Well, it just so happens that the statistics upon which the formula is based were known at the time the act was passed in 1965. It was equally well known at that time that the formula would result in the regional effect which they now attempt to claim was unintentional. I want to repeat the idea expressed by several here today that whatever regionalizes this country divides this country.

I started these remarks with the statement that I wanted to encourage the exercise of the franchise by as many of our citizens as possible. The Attorney General of the United States in testimony before the House Judiciary Committee, said:

> Little more than one-third of the voting-age Negro population cast 1968 ballots in Manhattan, the Bronx, or Brooklyn, New York City, and this amounted to only one-half the local white turnout.
>
> I consider these statistics to be proof that extension of the voting rights legislation aimed at the entire States of Virginia, South Carolina, Georgia, Alabama, Mississippi, Louisiana, and 39 counties of North Carolina is unreasonable today, however well intentioned it might have appeared in the past.

I suggest to my colleagues that it is unreasonable today to continue to aim this act at the Southern States. Let every American, including the Puerto Rican in New York and the Negro in the North, enjoy the benefits of the 15th amendment. The substitute bill is designed to apply the law fairly to all 50 States of the Nation. I am hopeful that today conscience and reason will prevail over expediency, and that you will support the substitute.

Mr. RARICK. Mr. Chairman, we are asked by the Committee on the Judiciary to extend for another 5 years the travesty on justice called the Voting Rights Act of 1965.

At the same time we will be given an opportunity to make the effects of this law felt throughout the length and breadth of the land—not just in the "conquered provinces" of the South.

As plain political retribution, and in an effort to load the voting rolls of certain Southern States with large numbers of patently unqualified individuals, who would react like puppets to the machinations of the left, this so-called Voting Rights Act was passed.

It cleverly utilized a bizarre formula relating the votes cast in the 1964 presidential election to the voting registration in the jurisdiction, to someone's idea of what the voting registration should have been at the time. And by the time the mystical formula was applied, only the States which had cast their electoral votes for Senator GOLDWATER were placed under Federal supervision.

Now that the act is due to be extended for 5 years, it has been suggested that the formula be applied to the 1968 presidential election, instead of the 1964 election, but the proponents of Federal oversight disapprove, pointing out that most of the Southern States currently penalized would be relieved of their present Federal supervision.

We are told in a carefully worded letter by the Chairman of the Civil Rights Commission that it is responsible for the addition of some 2 million Negro voters in the South. I am personally familiar with some of these additions. As district judge of the 20th Judicial District of Louisiana, the grand jury returned to me the indictments found against two of the newly enfranchised Negroes—one of whom had been led to declare on his oath that he had never been registered elsewhere when he was then and there registered in an adjoining parish, and another who was recognized as a recently released felon from the State penitentiary.

I insert Father Hesburgh's appeal to morality at this point in my remarks, reminding our colleagues that this is the same gentleman who, as president of Notre Dame University, has just added to its board for the supervision of the education of our young people, a convicted sex pervert, a convicted felon, a draft dodger, and an admitted onetime Communist who still travels with the same comrades:

U.S. COMMISSION ON CIVIL RIGHTS,
*Washington, D.C.*

HON. JOHN R. RARICK,
*House of Representatives,*
*Washington, D.C.*

DEAR MR. RARICK: This week the House of Representatives will vote on the extension of the Voting Rights Act of 1965 for another five years. The Commission on Civil Rights has amply documented the need for a simple extension of the Voting Rights Act with all of its protective provisions intact. The Administration's substitute is a much weaker bill. It is the judgment of the Commission that general electoral reforms should not be tied with the extension of the Voting Rights Act because the effect would be to dilute and confuse enforcement of Fifteenth Amendment rights with general reforms based on other considerations.

I have been a Member of the Commission on Civil Rights since 1957 when the original Commissioners were appointed by our late President Eisenhower. From my perspective of 12 years on the Commission, I think I can say that there has been no more effective piece of civil rights legislation than the Voting Rights Act of 1965. Prior to the passage of that statute, a succession of legislative and judicial pronouncements had proven totally ineffective to deal with historic and deep-rooted voting denials.

The Members of Congress of both parties who shaped and supported the 1965 Act can rightfully point with pride to one of the great legislative accomplishments of this decade. Their proof lies in the nearly two million newly enfranchised Negro voters in the South, in the 463 elected Negro office holders, and in the many changes which have taken place as a result of greater participation by Negroes in the political life of their communities, cities, States and Nation. The passage of that Act was one of political and moral correctness.

I do fear that many Members of Congress feel that the voting problems at which the 1965 Act was directed have been solved. They have not. The Fifteenth Amendment remains to be fully implemented. We cannot retreat on this front. If we do, we run the risk of endangering the faith of many of our people in the ability of our Government to meet the legitimate expectations of its citizens.

Sincerely yours,

THEODORE M. HESBURGH,
*Chairman.*

An item in yesterday's Washington Post, by-lined and in all probability not published elsewhere, is timely in connection with our consideration of this measure. We have heard the sobs of the left for the poor disenfranchised District of Columbia, despite the fact that the District will always be a Federal dependent. Recently the residents of the District of Columbia—the model city, the shining example for the Nation—for which Congress has unquestioned responsibility, had an election.

This election was an unmitigated disaster to the left, both in the rejection of their candidates and in the sorry performance of their showcase electorate.

About 12 percent of the registered voters bothered to vote. Only about half

of the supposedly eligible voters in the District have bothered to register. This means that about 6 percent of those who might have participated in the only election for local officers took the trouble to vote.

But total disaster overtook the theorists when it turned out that of those who did vote, some 70 percent were white. What can be the explanation for an election, under total Federal supervision, in the Nation's Capital, where the population some 80 percent Negro, and less than 2 percent of the eligible nonwhites voted?

How much more federally supervised can you get?

The chairman of the District of Columbia Democratic Central Committee, an experienced attorney from the Department of Justice, has concrete recommendations to correct this situation. He recommends lowering the voting age to 18, providing free television and radio time for candidates, and income tax credits for political contributions—but nowhere does this expert recommend Federal watchdogs to assure that everyone eligible to vote does vote whether he wants to or not.

Mr. Chairman, I have long believed that the voting privilege includes an absolute right not to vote. Many individuals find themselves not offered an intelligent choice and other realize that they do not have sufficient understanding of the issues to cast a ballot. In such cases their conscience leads them to decline to participate. This, in effect, gives their consent and approval to the selection made by the majority of the voters. Such an omission may give statistical troubles to bureaucrats but it certainly is not the type of national emergency which should make anyone consider drastic legislation of doubtful constitutionality to deny to such citizens their right not to vote—simply to keep the bookkeeping neat.

I insert a news reports describing the election in the District at this point:

[From the Washington Post, Dec. 10, 1969]

DEMOCRATS PROPOSE VOTING LAW CHANGES

(By Paul Hodge)

The D.C. Democratic Central Committee last night recommended wide-ranging revisions in Washington's election laws.

The committee's proposals include free television and radio time for school board candidates, tax credits of "perhaps $10" for political contributions and lowering of the voting age to 18.

The proposals stem from what Committee Chairman Bruce Torris called a "disastrous" school board election in which only 12 per cent of the registered voters cast ballots. The board of election already has called for suggestions on how to increase participation in the city's only local election.

Only 25,000 voted Nov. 4 out of some 200,000 registered voters. There are about 350,000 to 400,000 in the District eligible to vote, the elections board estimates.

Terris said the Nov. 4 election was "tragic, because about 70 per cent of those voting were white in a city where 90 per cent of the children are black."

The Democrats will soon present detailed recommendations to the election board, Terris said. Other proposals will include slate vote in the school board primaries (to help identify candidates for voters) and unlimited campaign expenditures (the elections board is considering limited costs to about $5,000 per candidate).

The tax-credit proposal is similar to one considered nationally for presidential candidates, Terris said.

The proposal for free time on TV and radio, "say perhaps 10 minutes per candidate," Terris said, is also similar to proposals for presidential elections.

In the course of debate I have been pleased to hear Members on the other side of the aisle indicate their fear that if this measure were broadened to cover all 50 States, as suggested in the administration substitute, it would probably be declared unconstitutional.

We in the South, who have suffered under the tyranny imposed by this act, have long known it to be in flagrant violation of the Constitution. Unfortunately, the caliber of the Federal judiciary in the South is such that determinations of this question have been political and not legal in every instance. I agree with our friends on the other side of the aisle that if this measure is applied to the entire country it will be declared unconstitutional—as it should have been 5 years ago.

I intend to cast my vote to make this measure equally applicable to all citizens of the United States. I do so in the hope that the clear and present danger of Federal intervention in the local election machinery in all parts of the country will alert Members to this act's nauseating suppression of basic rights. The destruction of the local franchise has always been the first act of the totalitarian.

In the event that the amended bill becomes law, I sincerely hope that some of my newly effected friends will take prompt steps to test the constitutionality of the law in a forum whose judgment is not subject to review by the Fifth Circuit Court of Appeals. Nevertheless, Mr. Chairman, because two wrongs do not make a right, I cannot vote for either the original bill or the substitute on final passage, because I know that neither give any rights but that they actually prevent the exercise of rights plainly protected by the Constitution. Five years ago this bill was unconstiutional and immoral. The passage of time has not healed either defect, nor will its extension to all of our sister States. I must oppose its adoption.

Mr. BINGHAM. Mr. Chairman, in the course of my earlier remarks during the debate on this bill, I mentioned the literacy test provision of the administration substitute. I did not mean to imply that I support or sanction the use of literacy tests in New York. On the contrary, I have consistently opposed such tests, and will continue to do so. There is no question that such tests, even when formulated and administered with care and without malice, impose unjustifiable restraints on the right of every citizen to vote and to participate in the political process.

However, I feel that we should concentrate the limited Federal resources available to enforce the voting rights legislation on ending the use of literacy tests in those areas of the country where their effect on political participation is most direct, severe, and regressive. As a practical matter, this seems infinitely more sensible to me than dissipating our efforts by trying to police with Federal resources election systems in areas like New York where the negative effects of literacy tests are much less clear and great than in other areas of the country covered by the current voting rights legislation. We cannot afford to risk losing the gains we have made in the South by spreading out investigative and enforcement resources too thin.

Mr. HALPERN. Mr. Chairman, the whole effort of Congress, of the Justice Department, and of the Federal courts in enacting and enforcing the Civil Rights Act of 1957, 1960, title I of the Civil Rights Act of 1964, and the Voting Rights Act of 1965 has been aimed at securing for black Americans in the Southern States the right to vote guaranteed them by the 15th amendment. The approach to protecting voting rights prior to 1965 was judicial. The attempt to protect voting rights by recourse to the courts on a case-by-case basis had little success because litigation is too time consuming, and because local registration officials—who were determined to prevent Negroes from voting—usually had other ways of keeping black applicants off the registration rolls after the courts had enjoined specific discriminatory practices.

In passing the Voting Rights Act of 1965, Congress bypassed the judicial approach and abolished the very means by which local registration officials nullified the efficacy of court orders. It did this by suspending literacy tests and devices as conditions for voter registration in States and counties covered by the triggering criteria of section 4(b), by authorizing Federal examiners to list eligible voters in each of these counties where voting rights are still denied, by authorizing Federal observers to insure the fair conduct of elections, and by requiring covered States and political subdivisions to submit new voting laws for approval to the Federal District Court for the District of Columbia or to the U.S. Attorney General in order to prevent covered jurisdictions from impairing 15th amendment rights by discriminatory legislation.

The Voting Rights Act of 1965 has proven tremendously effective. Since its enactment, approximately 800,000 Negro citizens have become registered voters in Alabama, Georgia, Louisiana, Mississippi, and South Carolina. Prior to passage of the act, 29 percent of age-eligible Negroes in these States were registered; 52 percent are registered today. According to the Southern Regional Council there were 70 Negro elected officeholders in the South in 1965 shortly after passage of the Voting Rights Act; today there are 473. Negroes in the South have reason to hope that they can make their presence felt in the democratic political process.

If the House should reject H.R. 4249 as a simple extension of the Voting Rights Act for an additional 5 years and pass instead the administration substitute, it would jeopardize the tremendous gains in political rights achieved over the past 4 years.

There is surely no need to suspend literacy tests for voter registration in the

12 States not now covered by the act which administer such tests. Can it be imagined that if voter discrimination based on race or color occurred in these 12 States that there would have been no complaints to the Civil Rights Commission or lawsuits brought by the NAACP? There have been no complaints or lawsuits coming from any of these States. The Southern States and the Southern States alone have sought to prevent Negroes from voting, and protective legislation is needed today and will be needed tomorrow to insure political liberty in the South.

Federal examiners have been sent to 64 counties in the South. Is it imaginable that the Justice Department should find it necessary to send examiners into any county in any of the 12 States, for example, which presently have literacy tests—to send examiners into Alaska, Massachusetts, or Delaware? The suggestion reflects the absurdity of the substitute amendment proposed by the administration.

Suspension of literacy tests in Connecticut might not endanger voting rights in Mississippi, but elimination of the requirement that presently covered States submit new voting laws for prior Federal approval before putting them into effect would certainly endanger voting rights throughout the South. The Nixon-Mitchell substitute replaces this requirement with authorization for the Attorney General to ask the Federal courts to enjoin the application of new voting laws which would be racially discriminatory. The substitute amendment would thus replace administrative enforcement which is the only kind of approach which has succeeded in protecting voting rights with judicial enforcement which was the approach of the civil rights acts prior to 1965 and which failed.

If the substitute amendment should become law, Southern States would be free to enact laws designed to prevent Negroes from voting or to lessen their voting power or to prevent Negro candidates from getting into office and the Attorney General could not immediately put a stop to the enforcement of such laws. He would have first to go into court and initiate a process so time consuming that elections might occur in the meanwhile and Negroes might suffer denial or abridgment of voting rights.

The Civil Rights Commission, in its 1968 report, "Political Participation," warned us that the Southern States still aim to prevent Negroes from exercising proportionate electoral power. The Commission stated:

> In areas where registration has increased, we have moved into a new phase of the problem. Political boundaries have been changed in an effort to dilute the newly gained voting strength of Negroes. Various devices have been used to prevent Negroes from becoming candidates or obtaining office. Discrimination has occurred against Negro registrants at the polls and discriminatory practices—ranging from the exclusion of Negro poll watchers to discrimination in the selection of election officials to vote fraud—have been pursued which violate the integrity of the electoral process.

In the face of this evidence, the substitute bill would deprive the Federal Government of the most effective kind of check on voting laws which the Southern States might enact.

The issue is this, Mr. Chairman: Will Congress continue to give effective protection of voting rights or will it permit abridgment of the democratic process? Current polarizing tendencies in our country might well be reinforced by lessened Federal protection of voting rights.

Mr. CONYERS. Mr. Chairman, history is watching us. History will deliberate on our actions today, and when this era has passed and the emotions have died down, history will render judgment on this Congress and what it has done. And history is an empirical, unemotional and merciless judge. What verdict will it reach on our consideration of the Voting Rights Act of 1969?

Today, we must consider two alternatives. To give a 5-year extension to sections 4 and 5 of the Voting Rights Act of 1965 or pass the administration backed substitute. How do these alternatives differ? A three-point answer is required. The administration substitute would suspend literacy tests nationwide while extension of the Voting Rights Act would continue the suspension of these tests only in the six States and part of a seventh covered by the act.

I agree with Attorney General Mitchell that literacy tests are not justifiable. In my judgment, they should be abolished. Every State should be prohibited from using this and similar devices as a prerequisite to the right to vote in any election. But one thing surprises me. In 1965, when I urged moving toward abolishing literacy tests, some of my colleagues thought the idea scandalous. Yet today, many of these same gentlemen are seemingly supporting that very move. Their new found free thinking on this matter is extremely interesting.

The principal basis for such action is the 14th amendment which prohibits any State from denying any of its citizens equal protection of the laws.

The principle constitutional base for the Voting Rights Act is the 15th amendment. Therefore, separate legislation is required to properly legislate against literacy tests on a nationwide basis. In that regard, five of my colleagues and I have introduced a separate piece of legislation, H.R. 15146, to abolish these tests nationwide. But the careful deliberation we must give to any such legislative action must not obscure or obstruct the extension of the Voting Rights Act. And that is exactly what is being done today. The debate on literacy tests is designed to throw a cloud around the two remaining major differences in the alternatives we are considering. Under the present Voting Rights Act, the U.S. Attorney General may direct the U.S. Civil Service Commission to appoint Federal examiners to list eligible voters if he has received 20 meritorious written complaints alleging voter discrimination. This power is eliminated in the administration substitute. There would be no provision for administrative appointment. The Attorney General would have to petition in court for the appointment of examiners. What kind of effective relief to those disenfranchised by fraudulent election procedures can be given years after the fact? In the absence of examiners, what process on the local level will give the Attorney General "reason to believe" racially discriminatory voting practices have been enacted or are being administered? The reliance on appointed examiners is a return to the ineffective, arduous procedures in effect prior to 1965. We should certainly not revert to a procedure already found wanting.

The third difference of major consequence between the present and proposed measures is the elimination of section 5 from the Voting Rights Act of 1965 provided by the administration substitute. The States covered by the present act would not be required to first obtain the approval of the Attorney General or a declaratory judgment from the District Court of the District of Columbia before implementing new voting qualifications or procedures. The burden of proof for any wrongdoing would then be on the Attorney General. This would force a return to the case-by-case, county-by-county approach through the courts which has proved so slow and inadequate in the past.

What is the net effect of these differences? If accepted, the administration substitute, most obviously, would be a clear impediment to the enforcement of our constitutionally guaranteed right to the vote, and would obstruct access to the ballot for those millions of Americans who are still disenfranchised. To support such a move, my colleagues must believe that the clear and present evil that required our action in 1965 has been removed. You must believe there is no longer any injustice to correct. You must believe that Southern public officials will not make every effort to disenfranchise those black people already on the voting rolls and to hinder in every way those still attempting to become listed. This is the most important question to consider in this entire debate: Do you believe there is no racially motivated voter discrimination now being practiced and that there is no probability or inclination on the part of Southern public officials to practice or support such discrimination? In short, is full voter equality a reality? This question cannot possibly be answered affirmatively. The evidence is overwhelming. Can the South, in 4 years, have so clearly reversed the effect of their 100-year history of voter discrimination and racial injustice? If this be fact, then there is every justification for not extending the Voting Rights Act in its present form. All could agree on the administration substitute. But practices so institutionalized, so built in and deeply imbedded into the fabric of a society, do not vanish that easily, even though we wish that they could.

We must look at the facts, regard the evidence. Even under present enforcement provisions there are still 185 counties where less than 50 percent of the eligible black Americans have been registered to vote. In the entire State of Alabama the percentage is only slightly above a majority, 51 percent; in Georgia, 52.6 percent; in South Carolina, 51.2 percent. In Mississippi, the percentage is 59.8 percent; in Louisiana, it is 58.9 percent; in Virginia, it is 55.6 percent. In

the 6½ States covered by the 1965 act, only 57 percent of the black voting-age population is registered. This must be compared to the 79 percent of the white voting-age population that is registered, a difference of 22 percent. Federal examiners have only been assigned to 58 of the 517 counties in all the 6½ States covered by the present law.

Since these are the figures presently, there can be little confidence in the future if the Voting Rights Act is not extended. Equality will be further impeded. I do not believe we have gone far enough. At least 2 million black Americans remain who are not allowed to exercise their right to vote. Many more who do vote suffer harassment and intimidation. In my judgment, the Voting Rights Act must not only be extended, but strengthened. It should be made more effective, not less. The enforcement provisions should be more automatic. Assurance of voting rights even now depends too much on the discretion of the Attorney General. The Voting Rights Act should allow door-to-door registration and class-action litigation. It should be strengthened to the extent that all Americans, black as well as white, are truly guaranteed their right to freely cast a secret ballot in any and all elections. Partial democracy is no democracy at all.

But there are those in this body who are saying that enough progress has been made. My colleague from Michigan (Mr. GERALD R. FORD) is the sponsor of the administration substitute. He says that black people have been included in the southern political process to such a great extent that the State legislatures will not reverse the trend. Let me remind Mr. FORD that there is only one black legislator in Louisiana. There is only one black legislator in Mississippi. There is only one black legislator in North Carolina. There is only one black legislator in Virginia. There are none in Alabama or South Carolina.

The argument from the gentleman from Michigan cannot be considered seriously. To the contrary, in one current example, the Georgia State Legislature is now attempting to merge the city of Atlanta into the surrounding Fulton County and thereby severely curtail the ballot power of the black citizens of that city. These voters recently reversed the political order of the last generation by electing a liberal white mayor and a liberal, black vice mayor. This recent political event shows that abolition of the city of Atlanta is an obviously discriminatory change in voting procedure.

The democratic process in the South is well described by the former Assistant Attorney General in charge of the Civil Rights Division, Mr. Burke Marshall. He has said:

> When the will to keep Negro registration to a minimum is strong, and the routine of determining whose applications are acceptable is within the discretion of local officials, the latitude for discrimination is almost endless. The practices that can be used are virtually infinite.

The most obvious tactic that will be used is requiring reregistration of all voters. Then all manner of contrived and hypocritical efforts will be made to prevent black people from returning to their rightful place on the voting rolls. A number of localities in the South—West Feliciana Parish in Louisiana being prominent among them—already have instituted procedures requiring reregistration.

If the U.S. House of Representatives today accepts the Nixon administration substitute amendment, it will see tomorrow the injustices it has perpetrated. All America will suffer. For when freedom is denied for some, no one is truly free to enjoy it. Wendell Willkie, a Republican, once stated:

> Freedom is an indivisible word. If we want to enjoy it, and fight for it, we must be prepared to extend it to everyone, whether they are rich or poor, whether they agree with us or not, no matter what their race or the color of their skin.

History and the country are watching. How will we decide? The law is already on the books. All we have to do is extend it. I urge my colleagues to do no less.

The CHAIRMAN. The time of the gentleman from New York (Mr. CELLER) has expired.

All time has expired.

The Clerk will read.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 4(a) of the Voting Rights Act of 1965 (79 Stat. 438; 42 U.S.C. 1973(a)) is amended as follows:

In the first and third paragraphs, after the words "during the", strike the word "five" and substitute the word "ten".

In the first paragraph, after the words "a period of", strike the word "five" and substitute the word "ten".

SUBSTITUTE AMENDMENT OFFERED BY MR. GERALD R. FORD

Mr. GERALD R. FORD. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. GERALD R. FORD: On page 1, strike all after the enacting clause and insert in lieu thereof the following:

"That this Act shall be known as the "Voting Rights Act Amendments of 1969."

"SEC. 2. Section 4 of the Voting Rights Act of 1965 (79 Stat. 438; 42 U.S.C 1973b) is amended as follows:

"(a) Strike subsection (a) and substitute the following:

"'(a)(1) Prior to January 1, 1974, no citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device.'

"(b) Strike subsection (b) and designate present subsection (c) as (a)(2).

"(c) Strike subsections (d) and (e) and add the following as subsection (b):

"'(b)(1) No citizen of the United States who is otherwise qualified to vote in any State or political subdivision in any election for President and Vice President of the United States shall be denied the right to vote in any such election for failure to comply with a residence or registration requirement if he has resided in that State or political subdivision since the 1st day of September next preceding the election and has complied with the requirements of registration to the extent that they provide for registration after that date.

"'(2) If such citizen has begun residence in a State or political subdivision after the 1st day of September next preceding an election for President and Vice President of the United States and does not satisfy the residence requirements of that State or political subdivision, he shall be allowed to vote in such election: (A) in person in the State or political subdivision in which he resided on the last day of August of that year if he had satisfied, as of the date of his change of residence, the requirements to vote in that State or political subdivision; or (B) by absentee ballot in the State or political subdivision in which he resided on the last day of August of that year if he satisfies, but for his nonresident status and the reason for his absence, the requirements for absentee voting in that State or political subdivision.

"'(3) No citizen of the United States who is otherwise qualified to vote by absentee ballot in any State or political subdivision in any election for President and Vice President of the United States shall be denied the right to vote in such election because of any requirement of registration that does not include a provision for absentee registration.

"'(4) "State" as used in this subsection includes the District of Columbia.'

"SEC. 3. Section 5 of the Voting Rights Act of 1965 (79 Stat. 439; 42 U.S.C. 1973c) is amended to read as follows:

"'SEC. 5. (a) Whenever the Attorney General has reason to believe that a State or political subdivision has enacted or is seeking to administer any voting qualification or prerequisite to voting, or standard, practice or procedure with respect to voting which has the purpose or effect of denying or abridging the right to vote on account of race or color, he may institute for the United States, or in the name of the United States, an action in a district court of the United States, in accordance with sections 1391 through 1393 of title 28, United States Code, for a restraining order of a preliminary or permanent injunction, or such other order as he deems appropriate.

"'(b) An action under this section shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall be to the Supreme Court.'

"SEC. 4. Section 6 of the Voting Rights Act of 1965 (79 Stat. 439; 42 U.S.C. 1973d) is amended by striking the words 'unless a declaratory judgment has been rendered under section 4(a)' and by striking, immediately after the words 'political subdivision,' the words 'named in, or included within the scope of, determinations made under section 4(b).'

"SEC. 5. Section 8 of the Voting Rights Act of 1965 (79 Stat. 441; 42 U.S.C. 1973f) is amended by striking the words 'Whenever an examiner is serving under this Act in any political subdivision the Civil Service Commission may' and substituting the following:

"'Whenever the Attorney General determines with respect to any political subdivision that in his judgment the designation of observers is necessary or appropriate to enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall.'

"Section 8 is further amended by adding the following sentence at the end thereof:

"'A determination of the Attorney General under this section shall not be reviewable in any court.'

"SEC. 6. Section 14 of the Voting Rights Act of 1965 (79 Stat. 445; 42 U.S.C. 1931l) is amended by striking subsections (b) and (d) and designating subsection (c) as (b).

"SEC. 7. The Voting Rights Act of 1965 (79 Stat. 437; 42 U.S.C. 1973) is amended by redesignating sections 17, 18, and 19 as sections 18, 19, and 20, respectively, and inserting the following new section:

"'SEC. 17. (a) There is hereby created a temporary Commission, to be known as the National Advisory Commission on Voting Rights (hereafter called the Commission),

which will be composed of not more than nine members who shall be appointed by the President. The President shall designate one member to serve as Chairman.

"'(b) The Commission shall undertake to make a study of the effects upon voting and voter registration of laws restricting or abridging the right to vote, including laws making residence, economic status or passage of literacy tests and other tests or devices a prerequisite to voting. The Commission shall also study the impact of fraudulent and corrupt practices upon voting rights. The Commission shall conduct such hearings as it deems appropriate and shall consult with the Attorney General, the Secretary of Commerce, and the Civil Rights Commission, and with such other persons and agencies as it deems appropriate. The Commission shall report to the President and the Congress, not later than January 15, 1973, the results of its study and make its recommendations for legislative or other action to protect the right to vote. The Commission shall cease to exist thirty days following the submission of its report.

"'(c) As soon as practicable following enactment of this statute and after consultation with the Attorney General and the Civil Rights Commission, the Secretary of Commerce shall make special surveys, in States which utilize literacy and other tests or devices, and in other States, to collect data regarding voting in presidential and other elections, by race, national origin, and income groups. The Secretary of Commerce shall transmit this data, together with other pertinent data from the Nineteenth Decennial Census, to the Commission.

"'(d) The Commission is authorized to request from any executive department or agency any information and assistance deemed necessary to carry out its functions under this section. Each department or agency is authorized, to the extent permitted by law and within the limits of available funds, to cooperate with the Commission and to furnish information and assistance to the Commission.

"'(e) Members of the Commission who are Members of Congress or in the executive branch of the Government shall serve without additional compensation, but shall be permitted travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons intermittently employed. Other members of the Commission shall be entitled to receive compensation at the rate now or hereafter provided for GS–18 of the General Schedule for employees for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Commission. While traveling on official business in performance of services for the Commission members of the Commission shall be allowed expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons intermittently employed. The Commission shall have an Executive Director who shall be designated by the President and shall receive such compensation as he may determine, not in excess of the maximum rate now or hereafter provided for GS–18 of the General Schedule under section 5332 of title 5, United States Code. The Commission is authorized to appoint and fix the compensation of such other personnel as may be necessary to perform its functions. The Commission may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.'

"SEC. 8. The provisions of this Act shall become effective on August 6, 1970, except that Section 7 shall become effective immediately."

Mr. GERALD R. FORD (during the reading). Mr. Chairman, I ask unanimous consent that the further reading of the amendment in the nature of a substitute be dispensed with and that it be printed in the RECORD.

Mr. CELLER. Mr. Chairman, is the substitute amendment identical to the bill, H.R. 12695?

Mr. GERALD R. FORD. The answer is in the affirmative.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan to dispense with the further reading of the amendment.

There was no objection.

The CHAIRMAN. The gentleman from Michigan is recognized.

(Mr. GERALD R. FORD asked and was given permission to proceed for an additional 5 minutes.)

Mr. GERALD R. FORD. Mr. Chairman, at the outset let me read for the benefit of the Members a letter which I received yesterday from the President of the United States.

THE WHITE HOUSE,
*Washington, D.C., December 10, 1969.*

Hon. GERALD R. FORD,
*Minority Leader of the U.S. House of Representatives, Washington, D.C.*

DEAR JERRY: I am aware that the House is considering a five-year extension of the Voting Rights Act of 1965, and alternatively, as an amendment, the Administration-proposed nationwide voting rights bill, H.R. 12695.

I strongly believe that the nationwide bill is superior because it is more comprehensive and equitable. Therefore, I believe every effort must be made to see that its essence, at least, prevails.

I would stress two critical points:

1. Instead of simply extending until 1975 the present Voting Rights Act, which bans literacy tests in only seven states, as the Committee bill would do, the nationwide bill would apply to all states until January 1, 1974. It would extend protection to millions of citizens not now covered and not covered under the Committee bill.

2. H.R. 12695 assures that otherwise qualified voters would not be denied the right to vote for President merely because they changed their state of residence shortly before a national election.

In short, the nationwide bill would go a long way toward insuring a vote for all our citizens in every state. Under it those millions who have been voteless in the past and thus voiceless in our government would have the legal tools they need to obtain and secure the franchise. Justice requires no less.

For certainly an enlightened national legislature must admit that justice is diminished for any citizen who does not have the right to vote for those who govern him. There is no way for the disenfranchised to consider themselves equal partners in our society.

This is true regardless of state or geographical location.

I urge that this message be brought to your colleagues, and I hope they will join in our efforts to grant equal voting rights to all citizens of the United States.

Sincerely,

RICHARD NIXON.

Mr. Chairman, I would like to make three basic points. Section I of the 15th amendment to the Constitution reads as follows:

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

In my humble opinion, Mr. Chairman, the Nationwide Voting Act would achieve that result far more effectively than the existing law which is proposed for extension. Let me take one illustration. Under the existing law and sections 4(a) and 4(b) seven States are under what is called the triggering device. Those seven States have automatically, in effect, examiners to register prospective voters and observers to make certain that the voting is carried out in accordance with the law. Those seven States, even after they have met the criteria established in the 1964 election, have the same onus to bear—exactly the same onus to bear. Five of those seven States have met the criteria of the 1965 act predicated on the presidential election of 1964.

Under the existing law and that which is proposed to be extended by the committee, 12 other States that still have a literacy test are not faced with that burden. A total of 43 States in effect are not faced with that burden of having automatic Federal examiners and Federal observers sent in to check on local officials.

I think that is unfair. I think that is inequitable.

Let us take a look at the proposed nationwide bill. Under this proposal, which I am offering as an amendment, the Attorney General can send to any local jurisdiction, to any State, Federal examiners to help in the registration or observers to make certain and to make positive that the election is carried out fairly and equitably for every citizen.

In my honest opinion it is unfair and unjust under the 15th amendment to discriminate against seven States, and particularly the five States which have met the criteria that were established in the 1965 act.

Another concept that is dear, I think, to all Americans is the presumption of innocence. A person in our society is innocent until proven guilty. It seems to me if a person is innocent until proven guilty, then a State ought to be innocent until proven guilty. Under the existing law seven States are presumed guilty until they prove their innocence. Those seven States in good faith have participated in the registration of approximately 1 million who were not heretofore registered. Five of those States have met the criteria that were established in the 1965 act. Yet they still have the burden of proof and they are still considered to be guilty.

Let me make this analogy if I may. Take a track meet, a high jump. The track officials establish a 6-foot height and say that if contestants jump 6 feet, they have made it. Well, everybody who jumps 6 feet in good conscience under the rules established ought to be given credit for qualifying.

Under the existing law and the proposed extension recommended by the committee, five of the seven States which have done what the Congress told them to do are still considered unqualified. They still have to prove their innocence, contrary to any established concept I know of in this country.

The nationwide bill says that the Attorney General can move in when he has evidence, and he can go against any local jurisdiction or any State, but the Attorney General has the burden of proof

to establish for sure that the jurisdiction, whether it is local or State, is denying or abridging the right to vote. In other words, under our bill we use the basic concept that a person or a political subdivision or a State is innocent until proven guilty.

The third point is retrogression. I have heard some people say, "If we do not pass the existing law there will be retrogression, backsliding."

Let me say this: the most influential power against backsliding is the fact that 1 million people in this region have been registered to vote over the past 4 years. That is people power—people power. Every one of us in this Chamber understands people power. If we do not, we had better.

The people who have been registered will not permit backsliding.

Let me make this point: even if there were that danger or that threat—which I do not think there is—the Attorney General has power and authority under the bill I have offered as an amendment to move into any local jurisdiction, any State, and prevent the authorities in either case from taking action that would permit or result in backsliding.

So we have people power on the one hand and the power of the U.S. Attorney General on the other. He has the authority to move in to take affirmative action to prevent by injunctive relief any change in precinct lines, change in registration laws, to make sure the votes are counted. The Attorney General has plenty of power to prevent backsliding.

Furthermore, the Attorney General has a pretty accurate poll.

Every 4 years in a real national election he can determine by how people vote in any precinct or any State, whether or not the criteria of the 1965 act have been violated.

Let me make one other observation. Under my proposal there is the provision which would establish a nationwide residency requirement so that individuals in our society who, for one reason or another, move from one State to another do not lose their right to vote for President of the United States. An individual in a mobile society such as that in which we live ought not to be penalized for actions he must undertake beyond his control. He ought to be able to vote for the President of the United States, whether he moves from Michigan to California or Florida to Alaska. He should not be precluded and prevented from exercising the franchise.

I am amazed that the committee bill did not recognize that absolute need and necessity.

Yes, Mr. Chairman, for the reasons I have given and others that have been stated during the course of this debate, I strongly hope that the amendment in the form of a substitute, for the nationwide voting rights bill, is approved.

Mr. CELLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I listened with a great deal of interest to the statement of the distinguished minority leader that 4 years is enough to bring about a remedy as far as disenfranchisement of certain minorities is concerned. Just think of it. Four years, after a century of repression. Four years, after a century of disenfranchisement. Is 4 years enough? I question that, indeed. That is a case of extreme foolish optimism. Four years is not enough. We have sufficient proof to indicate that.

The Commission on Civil Rights says that despite the progress, however, it is clear that we are still a long way from the goal of full enfranchisement of Negro citizens.

As this report discloses many problems remain in securing to the Negroes of the South the opportunity to participate equally with white citizens in voting and political activity. There remain areas where the number of Negroes registered to vote is disproportionately low. Some Negroes are still discouraged by past discrimination. Many reside in counties and parishes which have not been designated for Federal examiners. In areas where there have been registrars registration has increased and that we have moved into a new phase of voting discrimination. Political boundaries have been changed in an effort to dilute the newly gained vote of the Negro and other devices have been adopted.

There are various subtle and disingenuous methods used to continue to disenfrancise Negroes.

So, Mr. Chairman, work remains to be done. If you take away the so-called trigger which is the real result of the substitute—and I do not believe it is the voice of "Gerald" but the hand of "John" that is involved in this substitute.

There is more in it than meets the eye. It is purely political. Let us not forget that. Those who are now voting for this substitute in the main, voted for the act of 1965. Now there is suddenly a change of heart because there is a sudden change in the political atmosphere.

Mr. THOMPSON of Georgia. Mr. Chairman, will the gentleman yield?

Mr. CELLER. Yes, I yield to the gentleman from Georgia.

Mr. THOMPSON of Georgia. Is the gentleman aware of the fact that the Attorney General testified at the hearings that there is a higher percentage ratio of Negroes registered in the South than in the gentleman's own State of New York?

Mr. CELLER. I asked the Attorney General that, to give me proof as to whether or not there was a single case in my own State where a Negro was denied the right to vote because of his race or color. He could not give me one single example. He presented no record at all with reference to voting discrimination in the State of New York insofar as Negroes or Puerto Ricans are concerned.

Mr. THOMPSON of Georgia. Perhaps the gentleman from New York misunderstood my question.

Mr. CELLER. We encourage the Negro vote to the extent that we have a district with a Negro Congresswoman. Mrs. CHISHOLM represents that district. Do you call that discrimination?

Mr. THOMPSON of Georgia. No, but I was talking about——

Mr. CELLER. We call that respect for the Negro vote.

Mr. THOMPSON of Georgia. Mr. Chairman, will the gentleman yield?

Mr. CELLER. Just a minute. You asked for it and you are going to get it.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. CELLER was allowed to proceed for 5 additional minutes.)

Mr. CELLER. In addition thereto, there is a Puerto Rican president of the Borough of Bronx. There are more Puerto Ricans in the Borough of Bronx than there are in San Juan, P.R. Do you think there is evidence of discrimination against Puerto Ricans in the city of New York, in view of the election of a Puerto Rican? We encourage the Puerto Rican vote as we encourage the Negro vote.

Mr. THOMPSON of Georgia. Mr. Chairman, if the gentleman will yield, I would like for the gentleman to answer my question.

Mr. CELLER. In my own district, I have a great many Negroes, and I do all and sundry things to encourage registration and voting, as do all my colleagues of the New York delegation.

Mr. THOMPSON of Georgia. Mr. Chairman, will the gentleman yield in order that I may get an answer to my question? I am afraid the gentleman has got off on a tangent.

The CHAIRMAN. Will the gentleman from New York yield to the gentleman from Georgia?

The gentleman refuses to yield at this time.

Mr. CELLER. Mr. Chairman, the gentleman from Michigan spoke about burden of proof. Let me tell you about burden of proof, and let me quote from a Supreme Court decision, given the history in some States of repression of any attempts by black people to gain political power, and the greater familiarity of the State with the purpose and effect of its legislation the burden of proof should be on the States "covered" by the act.

As the Supreme Court observed:

> After enduring nearly a century of widespread resistance to the 15th Amendment, Congress has marshalled an army of potent weapons against the evil, with authority in the Attorney General to employ effectively. *South Carolina* v. *Katzenbach* 383 U.S. 301. (1966)

Thus, the burden is where it belongs. It is impossible for an Attorney General to keep abreast of each and every election law change. The States and counties involved are in the best position to explain their laws. If they are changing their statutes or laws with reference to voting they should come forward and submit them for Federal review before the laws can be enforced. That is where the burden should lie and the burden must continue to lie. It would be a disaster to the Voting Rights Act of 1965 if we repeal that requirement. We would then have a situation of case-by-case litigation.

The record of the past shows it is almost impossible for the Attorney General to institute effective remedies to end voting discrimination by proceeding case by case; it is a slow, snail's process. One case took 4 years to develop, and meanwhile there were any number of elections. The verdict was in favor of the petitioner after 4 years. What good was

the judgment after the elections were over? Once an election has passed, interference with the right to vote is irremediable. The case-by-case approach was tried in the areas now covered by the act. It encountered delay and intransigence. The progress it yielded was miniscule. To abandon the automatic remedies of the act, in favor of court litigation, is to revert to the inadequate protections of the past, and jeopardize the gains in voter registration thus far achieved. I again say that I believe that the substitute should not be approved by this Committee.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. ANDERSON of Illinois. Mr. Chairman, I move to strike the last word.

(By unanimous consent, Mr. ANDERSON of Illinois was allowed to proceed for an additional 5 minutes.)

Mr. ANDERSON of Illinois. Mr. Chairman, I do not lightly embark upon a course which places me in conflict with the present administration, and also with the gentleman from Michigan who addressed the House a few minutes ago, but I believe that there are overriding causes in this case that make that position, unenviable as it may be, the only course which I in good conscience can follow.

We have heard it explained that the so-called Nationwide Voting Act would more effectively implement the guarantees of the 15th amendment than would the extension of the present act, this despite the overwhelming evidence in the record before us that more than 1 million people have been added to the rolls in a short period since the enactment of this statute in 1965.

I pointed out when I had a few minutes yesterday that we run a grave constitutional risk of the invalidation of this entire statute under the decision in the Lassiter case.

There has been another point made that a State ought to be presumed innocent and not guilty, but again the fact of the matter is that the record is overwhelmingly clear that the whole purpose behind the enactment of this statute in 1965 was that for historical reasons, for cultural and educational reasons, we were trying to rifle in on those areas where the problem was the greatest.

And I ask you what is the purpose of section 5—which I agree with the gentleman from California is the very heart and soul of this statute? The purpose of section 5 is not to punish; it is to deter. It is to serve notice upon those who would use sophisticated methods, who would, by the adoption of various strategems seek to change voter practices and procedures either by altering boundary lines, by abolishing districts, by changing districts, by changing election to selection, and by changing filing fees—and you could go on and on—it is to deter.

The whole purpose of section 5 is to deter that kind of illegal conduct—not to punish. If their hands are in fact clean—if they come before the Attorney General—the present Attorney General of the United States, with clean hands, with any legitimate change that they desire to make in their voting procedures, I have every reason to believe—I have every confidence that the Attorney General will grant the proposed change and that there will not even be the necessity to go before the District Court here in the District of Columbia to ratify that particular change.

I think the fact remains that the testimony which was adduced at the hearings—I think if my memory serves me correctly there were days and days of hearings, when this statute was enacted in 1965—I think there were 67 witnesses and the bill was debated for 3 full days here on the floor of this House and I think for 26 days in the other Chamber. If you read the record of those debates and if you read the record of the hearings, I think the evidence is there as to why we took this action.

Again I repeat—it was not to punish and not to single out with opprobrium and for no good reason, certain areas of this country—but rather to try to guarantee to every citizen that precious right that we all enjoy—the right to choose and the right to vote.

In the decision that the Supreme Court made, which affirmed the constitutionality of this statute, the Court said, and I am quoting:

> Voting suits are unusually onerous to prepare. Sometimes they require as much as 6,000 man hours that must be spent combing through registration records, in preparation for control, and litigation has been exceedingly slow in part because of ample opportunities to delay afforded voting officials and others involved in these cases.

Mr. Chairman, it was to get away from that kind of case by case method of adjudication, that were not effective under the 1957, 1960 and 1964 acts that we adopted the voting rights act of 1965.

We have some people, I think, in this Chamber who are suffering from a gander complex. They tell me that what is sauce for the goose must be sauce for the gander. They say if this statute is so good, let us extend it nationwide.

Well, again, quite aside from the constitutional problems that that point of view raises, I would repeat that there is nothing so very strange about trying to rifle in on a particular problem by acting in a simple, rational manner.

I remember when we passed the economic development act. I remember when we passed the area redevelopment administration act.

What did we do there? We used an unemployment factor. We used that as a trigger in an effort to pinpoint the impact of this legislation in those areas of the country where the need was the greatest.

I believe, Mr. Chairman, that is all we are trying to do in asking for the extension of the present act—and that is to focus on those areas where the need is the greatest.

This Chamber has resounded, and will resound I suppose for some hours yet, with the injured and anguished feelings of wounded State pride. Some even say that what we seek to do does violence to the very concept of federalism.

I would offer simply this thought in concluding, against these outraged cries of wounded State pride, I think on the other side of the scales of justice we ought to place in the balance perhaps the rights of people—the rights of people to exercise what the Congress and the Constitution gave them a century ago in the 15th amendment.

I think if justice is truly that blindfolded Goddess that she is portrayed to be, then I think that in our hearts we will have to admit that the equities lie with those who want to see us complete a job that this Congress began in 1965.

I realize that there are those today who put this matter in quite a different perspective and who believe that the paramount issue before this Chamber is the question of equality among the States.

It seems to me there is a larger and an even more important question that confronts us—and that is that we try to do those things which will assure equality among the citizens of each and every State. To me that is far more important than even the question of the sovereign equality of the several States.

Mr. Chairman, I hope that the substitute amendment is defeated.

I must now yield to my colleague, the gentleman from New York (Mr. FISH) to whom I had earlier promised I would yield.

Mr. FISH. Mr. Chairman, I congratulate the gentleman in the well and associate myself with his remarks as one of the original sponsors of the committee bill.

Mr. Chairman, there is little to add to the statement of the gentleman from Illinois (Mr. ANDERSON). I find it fitting in this debate on human rights that a Republican from Illinois reminds us that we still stand in the tradition of Lincoln.

The Voting Rights Act of 1965 has worked. There has been a significant increase in the number of Negro citizens registered, voting, and running for office. But full equality is far from a reality, and Federal protection is still needed. A dilution of the simple extension of the 1965 act would represent a retreat.

The evidence of continued efforts to frustrate Negro registration indicates that the job can best be completed by a 5-year extension of the existing legislation. I cannot accept legislation which dilutes the main thrust of the 1965 act, the present sections 4 and 5. It is interesting to note, Mr. Chairman, that the original legislation drafted in 1965 calls for a 10-year lifetime, and that this period was reduced to 5 years solely to gain a political compromise to break the filibuster against the bill in the other Chamber.

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

Mr. ANDERSON of Illinois. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Chairman, I am almost persuaded now to ask two questions, since I heard the gentleman's concluding statements, but I will ask the last question first in case we do not have time for the first.

Mr. Chairman, will the gentleman tell me how he can reconcile his closing statement and provide equality for all citizens if we do not provide equality for the States, how can we provide equality for the people in the States if the States themselves are not treated equally?

Mr. ANDERSON of Illinois. Because, my friend, in our country the sovereignty resides not in the States, but the sovereignty resides in the people. What we are trying to do in this legislation is to make sure that sovereignty will be exercised fairly and without any reference to color or race or previous condition of servitude. That is all we seek to do.

Mr. RODINO. Mr. Chairman, I rise in opposition to the proposed amendment which incorporates the administration's alternative to a simple extension of the Voting Rights Act of 1965.

I urge rejection of this amendment because I believe it proposes remedies for wrongs which have not been established. Many of its complex provisions are of doubtful constitutionality. Most importantly, it is an inadequate, regressive alternative to the Voting Rights Act of 1965.

The substitute eliminates the trigger or formula of the Voting Rights Act and in its place proposes a 4-year nationwide ban on literacy tests. Unlike the present act, it does not give the States affected an opportunity to establish that their tests have not been used to discriminate. This fact, coupled with the lack of any evidence or complaint of discriminatory use of such tests, renders the constitutionality of the entire proposal highly dubious.

The administration's proposal scuttles the automatic administrative remedies of the act. It scraps the requirement that new voting laws or new election practices require Federal review before they may be implemented. The administration's alternative would be to authorize suits by the Attorney General to challenge discriminatory voting practices. The Attorney General already possesses such authority. The amendment is a redundancy; it is superfluous.

It cuts out from the Voting Rights Act a remedy which may make all the difference in the next few years as to whether or not the gains thus far realized will remain secure. It proposes a return to the case-by-case, county-by-county litigation approach which gave rise to the Voting Rights Act in the first place.

To those who attack the Voting Rights Act as "regional legislation," I ask: Has fear characterized voting and efforts to vote throughout the Nation, or has it been focused in certain regions? Has segregation in travel, recreation, education, and hospital care, as well as voting, been embodied in statutes and ordinances in areas where the formula of the Act does not apply? Of course not. We must not apologize because certain remedies of this Act focus on certain regions of the country.

Lest our memories be too short, it may be appropriate to recall a few words from a Supreme Court decision in 1965 in United States against Louisiana:

> As the evidence showed, colored people, even some with the most advanced education and scholarship, were declared by voting registrars with less education to have an unsatisfactory understanding of the constitution of Louisiana or of the United States. This is not a test but a trap, sufficient to stop even the most brilliant man on his way to the voting booth. The cherished right of people in a country like ours to vote cannot be obliterated by the use of laws like this, which leaves the voting fate of a citizen to the passing whim or impulse of an individual registrar. Many of our cases have pointed out the invalidity of laws so completely devoid of standards and restraints.

The administration proposal assumes that the stringent remedies of the act are no longer needed. Instead of focusing on those areas where the public policy and tradition had fostered voting discrimination, the substitute applies the remedies across the land without a prior judicial proceeding. But can and should we automatically interfere with the rights of all States to set voter qualifications? No evidence, no record of complaints of voter discrimination have been offered. Why should we authorize the Attorney General to appoint Federal examiners to register voters in Portland, Maine, Seattle, Wash., or Fresno, Calif., without any evidence at all of voting discrimination?

How can we constitutionally ban literacy tests in New Hampshire, Oregon, or Wyoming without any evidence or complaints of discrimination due to literacy tests?

Other provisions of the administration proposal authorize special voter surveys and create a presidential commission on voting. These provisions are entirely superfluous and duplicate existing law. Other provisions which would establish minimum residency requirements for voting in presidential elections also affects absentee voting and registration requirements under State law. They pose complicated questions of practical application and raise serious doubts as to their constitutional validity.

For all these reasons and particularly because the proposed amendment would jeopardize the progress we have thus far achieved in opening voter rolls to all, irrespective of race or color, I must express my full and complete opposition to it.

I urge my colleagues to reject the amendment.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

AMENDMENT OFFERED BY MR. DENNIS TO THE SUBSTITUTE AMENDMENT OFFERED BY MR. GERALD R. FORD

Mr. DENNIS. Mr. Chairman, I offer an amendment to the substitute offered by the gentleman from Michigan (Mr. GERALD R. FORD).

The Clerk read as follows:

> Amendment offered by Mr. DENNIS to the substitute amendment offered by Mr. GERALD R. FORD: Page 1, line 7, strike out the words "and substitute the following", and strike out lines 8, 9, and 10 in their entirety.
>
> Page 2, line 2, strike out the figure "(2)".

Mr. DENNIS. Mr. Chairman this amendment does just one thing. It strikes from the substitute the following language:

> Prior to January 1, 1974, no citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device . . .

In other words, it removes from the administration bill the nationwide suspension of literacy tests. It otherwise leaves the substitute administration proposal exactly as it now is.

I support the substitute. I have already indicated to the Committee in my previous remarks that I much prefer its approach, or proceeding through the courts having the Attorney General required to prove a case of discrimination, and treating all of the country alike, in the traditional way that the substitute does, to the drastic remedies of sections 4 and 5 of the 1965 Act, which the committee bill seeks to extend.

But the substitute is not perfect, and I want to improve it. The main reason I want to take out this nationwide prohibition of literacy tests is not so much because I believe in the test, although, if it is fairly administered, there is a good case one can make for it, but because I believe it is very plainly unconstitutional to try to say to the several States of the Union that they cannot prescribe such a test if they want to, assuming that they do not apply it in any discriminatory manner.

The reason why I say that is not just off the cuff as a lawyer but because the Supreme Court of the United States has so squarely decided on one occasion, in the case of *Lassiter* v. *Northampton County Board of Election*, 360 U.S. 45. They had that very question before the Court.

The Court pointed out, Mr. Chairman, that the several States have wide jurisdiction as to proper voting qualifications such as residence, age, and so on, which they can properly prescribe for voting laws if they are applied equally and fairly to all citizens alike. The court said this in a case where there was a challenge to a literacy test where no discrimination was shown.

The Court said the following:

> The ability to read and write likewise has some relation to standards designed to promote intelligent use of the ballot. Literacy and illiteracy are neutral on race, creed, color, and sex, as reports around the world show. Literacy and intelligence are obviously not synonymous. Illiterate people may be intelligent voters. Yet in our society where newspapers, periodicals, books, and other printed matter canvass and debate campaign issues, a State might conclude that only those who are literate should exercise the franchise.
>
> Of course a literacy test, fair on its face, may be employed to perpetuate that discrimination which the 15th Amendment was designed to uproot. No such influence is charged here. . . .
>
> The present requirement, applicable to members of all races, is that the prospective voter "be able to read and write any section of the Constitution of North Carolina in the English language." That seems to us to be one fair way of determining whether a person is literate, not a calculated scheme to lay spring for the citizen. Certainly we cannot condemn it on its face. . . .

They upheld the State law and so far as I know that is still the law.

Mr. ROGERS of Colorado. Mr. Chairman will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Colorado.

Mr. ROGERS of Colorado. Do I understand that the decision to which the gentleman has referred is the Lassiter decision which, in effect, said that the State of North Carolina could insist upon a literacy test? That was in 1960 and that decision has not been set aside in subsequent decisions.

Mr. DENNIS. As the gentleman knows we have the Katzenbach decision and the

Gaston County decision but neither of them overrule that case.

Mr. ROGERS of Colorado. Mr. Chairman, if the gentleman will yield further, the Katzenbach case and the others were based on the Voting Rights Act of 1965 where in section 2 thereof it was provided that there shall not be imposed or applied by any State or political subdivision any act to deny or abridge the right of any citizen of the United States to vote on account of race or color.

Mr. DENNIS. The gentleman is correct.

Mr. ROGERS of Colorado. The basis for the Voting Rights Act of 1965 was on race and color and that is what the gentleman's amendment deals with, that if there is discrimination because of race or color as provided in section 2, your amendment will eliminate the obnoxious features at least of this section of the Voting Rights Act, the one limiting this bill and its extension and the substitute to race and color; that is, if there no discrimination. But the literacy tests by the State would still stand.

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

Mr. ROGERS of Colorado. Mr. Chairman, I ask unanimous consent that the gentleman may proceed for 5 additional minutes.

Mr. THOMPSON of Georgia. Mr. Chairman, reserving the right to object, I know there are many people that do want to be heard. I have been here since 10 o'clock this morning and have not been given time. I would like assurance from the chairman of the committee that there will be no effort to cut off debate at a later time if we do have these extensions.

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

Mr. THOMPSON of Georgia. Yes, I yield to the gentleman from New York.

Mr. CELLER. I cannot give any assurance that debate will or will not be cut off. It depends upon the exigencies as they arise. The gentleman would not want me to do that.

Mr. THOMPSON of Georgia. I was wondering if the chairman himself would offer such a limitation on debate?

Mr. CELLER. I do not know what situation will develop. Let us wait and see.

Mr. THOMPSON of Georgia. Mr. Chairman, I object.

Mr. ROGERS of Colorado. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to H.R. 12695 and I yield to the gentleman from Indiana in order that he may proceed.

Mr. DENNIS. Mr. Chairman, I shall not take the 5 additional minutes, but what I want to say to the gentleman from Colorado and to the Committee is that what I am saying is that a literacy test as such, assuming it is fairly administered, is not unconstitutional, and the Court has so held. Therefore, I think the part I am trying to take out of the substitute bill is an unconstitutional part and that is why I am trying to get it out.

If we succeed in doing that and the Ford amendment should pass, then the suspension of literacy tests will not exist anywhere in the country. But I would call the attention of this body to the fact that you still have section 3 of the act of 1965, which provides that when the Attorney General gets a decree to enforce voting rights, that as part of that decree, the Court can suspend literacy tests in the decree if the court sees fit. That seems to me to be a proper way to operate.

What I am saying to you is that by supporting this amendment you get a clean voting rights enforcement enactment, by proceeding in a proper and responsible way to enforce voting rights without loading the measure down with extraneous, and, as I believe, unconstitutional provisions.

Mr. ROGERS of Colorado. Mr. Chairman, the administration proposal would suspend literacy tests and other similar devices anywhere in the United States until January 1, 1974.

EXISTING LAW

Under the Voting Rights Act of 1965, literacy tests are suspended in six States—Alabama, Georgia, Louisiana, Mississippi, South Carolina, and Virginia—and in 39 counties in North Carolina. In addition to these seven Southern States, 12 other States have a constitutional or statutory provision requiring some showing of literacy as a precondition to voting. These are: Alaska, Arizona, California, Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New York, Oregon, Washington, and Wyoming.

Under existing decisions the right to vote may be conditioned on a literacy test so long as it is not applied in a discriminatory fashion.[1]

COMMENT

First. The proposed nationwide ban is in no sense an effective substitute for the existing provisions of the Voting Rights Act which focus on areas in which a substantial record of voting discrimination has been established. There has been no evidence demonstrating the denial or abridgement of the right to vote on the basis of race or color because of literacy tests in the 12 States not now subject to automatic literacy test suspension. Moreover, no lawsuits have been instituted by individuals, civil rights groups, or the Federal Government challenging the purpose or effect of such literacy tests.

Second. The Attorney General is empowered under existing law—section 3 of the Voting Rights Act—to challenge the efficacy of literacy tests anywhere in the Nation. Should the Government succeed in challenging the validity of a literacy test, there is no reason to believe that a proliferation of litigation will ensue since the States in question historically have not pursued policies of voting discrimination on the basis of race or color.

Third. The administration proposal would arbitrarily prohibit the application of all literacy tests without affording any State or political subdivision an opportunity to establish to the satisfaction of a Federal court that in fact the application of such a literacy test does not discriminate on the basis of race or color. The Voting Rights Act of 1965, of course, does enable jurisdictions covered by the automatic suspension an opportunity to be released from the act.

Fourth. The administration proposal would have the curious impact of suspending the use of literacy tests in several areas which have been released by judgment in lawsuits from the suspension of such tests under the Voting Rights Act of 1965. These jurisdictions include: Wake County, N.C.; Apache, Navajo, and Coconino Counties, Ariz.; the State of Alaska; and Elmore County, Idaho.

Mr. ANDREWS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. ROGERS of Colorado. I yield to the gentleman from Alabama.

Mr. ANDREWS of Alabama. Mr. Chairman, the gentleman named the States and counties affected by the criteria of the 1965 Voting Rights Act.

Mr. ROGERS of Colorado. That is right.

Mr. ANDREWS of Alabama. Was there any coincidence in the fact that those States and counties voted for GOLDWATER?

Mr. ROGERS of Colorado. I, of course, do not believe that we considered whether they voted for GOLDWATER, but we did consider as to whether or not there was a certain percentage of people of a certain color who had not voted in the States that I named. And that was the overwhelming evidence that I had reference to that caused the enactment of the 1965 Voting Rights Act.

Mr. ANDREWS of Alabama. Mr. Chairman, will the gentleman yield further?

Mr. ROGERS of Colorado. I yield further to the gentleman from Alabama.

Mr. ANDREWS of Alabama. Mr. Chairman, does the gentleman think it is right to permit a moron to vote in one of these six States, and not permit him to vote in New York?

Mr. ROGERS of Colorado. The question is whether or not he is discriminated against.

Mr. ANDREWS of Alabama. Just one moment.

Mr. ROGERS of Colorado. Wait a minute.

Mr. ANDREWS of Alabama. That was not my question.

Mr. ROGERS of Colorado. The question asked by the gentleman relates to the Voting Rights Act, does it not?

Mr. ANDREWS of Alabama. That is correct.

Mr. ROGERS of Colorado. The Voting Rights Act of 1965 prohibits discrimination in voting on the basis of color or race. It enforces the 15th amendment.

The CHAIRMAN. The time of the gentleman has expired.

Mr. THOMPSON of Georgia. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I regret that unfortunately this debate seems to be degenerating into somewhat of an emotional state. Unfortunately, in an emotional air we

[1] In *Gaston County* v. *United States*, — U.S. —, decided June 2, 1969, the Court suggested that a literacy test may have the effect of denying the right to vote on the basis of race or color when applied to persons who have been subjected to inferior and unequal educational opportunity.

cannot always look at the equities of the situation.

Those Members who were here earlier to hear the gentleman from Virginia (Mr. POFF), I am sure recognized that as he gave his statement it was perhaps one of the best statements that has been given. I certainly do. Although, of course, it favored my position, I believe it was one of the fairest and clearest statements that has been made. It had no prejudice involved in it. There was no attempt to villify the South because of course the gentleman is from the South, but he did give a clear and concise presentation of what this act is all about.

Before I get into my main subject I would like to answer a question that the chairman of the Committee on the Judiciary asked me when he had the floor, and I asked him to yield.

He asked if I felt that he was prejudiced against Puerto Ricans.

If you look at the hearings on page 58 you will see where the chairman makes the statement that he voted against an amendment which would allow Puerto Ricans to vote who had a sixth-grade education in Spanish, but were not literate in English.

He says:

I am aware of that amendment, and I am afraid to confess that I voted against it.

I think perhaps that speaks for itself.

Another point that the chairman made on the same page when questioned by Mr. Glickstein, the civil rights commissioner, about literacy tests being used to discriminate he states:

I admit that with a jungle of literacy tests, it may be very easy to discriminate. In that sense, I would agree with you, but only in that sense.

These, of course, are statements of the chairman.

So certainly literacy tests may be used to discriminate not only in the South but in New York.

But the most important point I was attempting to make during the time that I asked the gentleman to yield is this point. In the State of New York there is a lower ratio of Negroes registered to vote than in the South. Is this because there are now no literacy test in the South but New York is free to invoke such test?

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

Mr. THOMPSON of Georgia. I yield to the gentleman.

Mr. LOWENSTEIN. Do you maintain that prior to the enactment of the Voting Rights Act there was no discrimination against black voters in the South?

Mr. THOMPSON of Georgia. Certainly not—there has been discrimination and there is no way that it can be condoned. However, let me say this.

We in this body should not look at the past and try to punish for past sins, but we should look at the present and the future of this country and try to do what is right for all citizens.

Mr. LOWENSTEIN. I agree.

Mr. THOMPSON of Georgia. Whether it be Georgia, Alabama, or New York State.

If the gentleman will allow me to continue, the point I believe I made was that simply there was a higher percentage of voting-age Negroes who went to the polls in the Deep South than in New York.

Further, from the testimony of the Attorney General on page 227 of the report—a higher percentage of voting-age Negroes went to the polls in the Deep South than in Watts or Washington, D.C., in the past presidential election.

Little more than one-third of the Negro voting-age population in Manhattan, the Bronx, Brooklyn, New York City, cast their votes in the presidential election.

So, surely, when we talk on an emotional basis about the fact that there may not have been the turnout in the South that there was in other areas, there are other areas of the country that we have not had the turnout as well.

But let me get to some of the basis of the voting rights.

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

Mr. THOMPSON of Georgia. I yield to the gentleman.

Mr. LOWENSTEIN. Of course, low voter turnouts can result from several different causes. I would be interested to know if it is your contention that in an area where there is a low turnout of voters for reasons not connected with discrimination, that that makes a situation equivalent to one where the low turnout is due to people being denied the right to vote because of their race? That question is central to the gentleman's point, since no one has alleged, much less produced evidence, that racial discrimination is the cause of the low voter turnouts that mar elections in some northern cities.

I agree that efforts should be made to increase voter participation wherever it is low, but that is not the purpose of this law. The purpose of this law is to make it possible for people to vote who wish to, to end racial barriers to the use of the franchise. Goodness knows, we have problems in New York about voter turnout—and about many other things—but these are not the problems this particular act is supposed to cure.

Mr. THOMPSON of Georgia. I believe I understand the gentleman's question and the gentleman can have his say when he gets 5 minutes.

Mr. LOWENSTEIN. I am simply asking the gentleman a question.

Mr. THOMPSON of Georgia. I do not condone discrimination any place, wherever it may occur. But I certainly feel that all laws should be applied equally and evenly throughout the United States.

In New York State there may be discrimination or there may not—I am not making that charge. But I am making the charge that there is a lower percentage of Negroes registered to vote in New York than in the entire South, on the basis of the current figures.

Mr. MACGREGOR. Mr. Chairman, I move to strike out the last word. I rise in opposition to the amendment offered by the gentleman from Indiana (Mr. DENNIS).

Mr. Chairman, the rights of citizenship, in December 1969, should be freely offered to those for whom the danger of alienation from society is most severe—because they have been discriminated against in the past, because they are poor, and because they are undereducated. As responsible citizenship does not necessarily imply literacy, so responsible voting does not necessarily imply an education. Thus, it would appear that the literacy test is, at best, an artificial and unnecessary restriction on the right to vote.

State officials have advised that in some of the States—for example, Delaware and Oregon—literacy requirements are no longer enforced or are enforced only sporadically.

Moreover, there is information that in many of these States the literacy test is not applied uniformly, but is applied at the discretion of local election officials. This lack of uniformity would appear to violate section 101 of the Civil Rights Act of 1964.

The Supreme Court appeared to tell us in the case of Gaston County against the United States that any literacy test would probably discriminate against Negroes in those States which have, in the past, failed to provide equal educational opportunities for all races.

Many Negroes, who have received inferior educations in these States, have moved all over the Nation.

The Bureau of the Census estimates that, between 1940 and 1968, net migration of nonwhites from the South totaled more than 4 million persons. Certainly, it may be assumed that part of that migration was to those Northern and Western States which employ literacy tests now or could impose them in the future; and that, as was true in Gaston County, the effect of these tests is to further penalize persons for the inferior education they received previously.

Thus, following the Supreme Court's reasoning, it would appear inequitable for a State to administer a literacy test to such persons because they would still be under the educational disadvantage offered in a State which had legal segregation.

Furthermore, the Office of Education studies and Department of Justice lawsuits have alleged that areas outside of the South have provided inferior education to minority groups. Following the general reasoning of the Supreme Court in the Gaston County case, any literacy test given to a person who has received an inferior public education would be just as unfair in a State not covered by the 1965 act.

As a matter of public policy, it seems to me that Congress has an interest in assuring that all citizens have equal rights to vote and that all State governments have equal rights to impose or to be prohibited from imposing certain voting restrictions.

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

Mr. MACGREGOR. I yield to my distinguished colleague from Illinois.

Mr. RAILSBACK. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I concur with the remarks of the gentleman. Despite the fact that I do not intend to support the Ford substitute, I think this is one section in that substitute which is excellent,

in other words, nationalizing the knocking out of all literacy tests.

Mr. Chairman, is it not also true, I ask the gentleman, that in the State of New York and some other States perhaps the mere fact that there is a literacy test is enough to cause some people without much education to not want to submit to the test?

Mr. MACGREGOR. Yes; particularly the blacks from the South.

Mr. Chairman, I thank the gentleman from Illinois for his comments.

Let me remind the Members that the National Association for the Advancement of Colored People and the American Civil Liberties Union and President Kennedy's National Commission on Registration and Voting have all urged the elimination of literacy tests as a precondition to voting. They have not just urged that they be eliminated in the South, but they have urged that they be eliminated nationwide.

Mr. CELLER. Mr. Chairman, I ask unanimous consent that all debate on the so-called Dennis amendment conclude in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. HANNA).

Mr. HANNA. Mr. Chairman, I take this time to ask the chairman of the committee some questions.

May I ask the chairman of the committee, the gentleman from New York, am I correct in understanding the situation that exists in regard to the Dennis amendment; assuming that we pass the Dennis amendment, the remainder of what is in the Ford substitute is then only in the main consisting of two things: First, it would take out that section of the existing law where the burden of proof is on the Southern States, those which originally had the majority of the problem with reference to colored population?

Mr. CELLER. Mr. Chairman, I think that is correct, but it does go beyond that.

Mr. HANNA. The second thing it would keep in is the point about allowing all the citizens of the United States to vote for President or Vice President regardless of the fact that they may have moved rather recently. Is that not also still in the Ford substitute?

Mr. CELLER. I do not think it goes as far as that absolutely. I think there are certain restrictions involved.

Mr. HANNA. As I recall the reading of the letter by Mr. GERALD R. FORD, two things seemed very clear in the letter. They were that the President was for this business of letting all citizens, whether they had moved or not before the election, vote for President and Vice President. That is one point he was for.

The second thing the President was for was the business of letting all citizens vote regardless of the fact that there might be some literacy tests or some other types of tests in a given State under the election laws. Those two things the President made very clear in the letter. I do not believe he was very clear about any other points, but he made those two points. I ask the question, assuming we could clear the question of constitutionality of Federal law about this business of putting a 5-year moratorium on literacy tests, would the gentleman from New York be averse to those two aspects?

Mr. CELLER. Mr. Chairman, I am averse. I want a simple renewal of the Voting Rights Act of 1965, without any ands, buts, or moreovers. I think the country is entitled to renewal of that act without any sham.

The CHAIRMAN. The Chair recognizes the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Chairman, I rise in opposition to H.R. 4249 because it is based upon conditions as they existed in 1964 rather than the present time and would ban acts in some States that are permitted in others. It seems to me that if a given act such as literacy tests are invalid under Federal law in one State, they should be invalid in all.

The Attorney General has recognized this in recommending to the Congress a proposal which, among other things, bans literacy tests and similar devices throughout the country until an advisory commission has an opportunity to investigate the matter and to report back to the President and to the Congress. Certainly, I think this is much more sound than a straight 5-year extension of an act without any weight or consideration being given to any change in the circumstances in the individual States.

Mr. Chairman, I believe every Member of this House supports the 15th amendment and would look with disfavor on any action by a State or political subdivision which would deny the right to vote to any American on the basis of his color or his race. Furthermore, I believe that all sections of our country have arrived at the place where there will be no denial by any government unit of the right to vote on this basis. But, if this is not true, it still seems reasonable to have laws on the subject equally applicable to all parts of the country. Therefore, I urge your support of the administration's proposal.

You have heard the statement that no individual should be above the law and no individual below the law, and I submit that we can go somewhat further and say that no State should be above or below but that a Federal law should be uniform throughout the country.

I wonder, however, Mr. Chairman, if some of the people favoring this legislation are not attempting to make a whipping boy out of the South and to impose restrictions upon the South which they are unwilling to accept for their own State. This is regional legislation which I understand was recommended by former Attorney General Ramsey Clark before he left office. It could well have the effect of driving some of our Democratic colleagues from the South into the Republican Party. They might be more appreciated and more comfortable there. It will certainly have the effect of hastening the rebuilding of a strong Republican Party in the South. So, from a selfish political point of view, let me urge the northern Democrats to be as harsh, to be as oppressive as possible in their northern strategy. By making the South a whipping boy, conjuring up or magnifying southern problems, you may be able to get more votes in the North. But you will be helping us rebuild a strong Republican Southland. Your efforts are appreciated.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, I rise in opposition to the Dennis amendment which, as I understand it, would have the effect of removing from the substitute offered by the gentleman from Michigan (Mr. GERALD R. FORD) the suspension of literacy tests. It does not have anything to do with the residency requirements.

There has been a great deal said about the need for this in the South but no need existing in the North. I believe we ought to be perfectly fair and reveal some other information which I came across, which was submitted by the Attorney General.

In the nine northern big-city States—Massachusetts, New York, New Jersey, Pennsylvania, Ohio, Michigan, Illinois, Missouri, and California—there were only 10 congressional districts where less than 100,000 votes were cast for Congress in 1968.

Of those 10, one was in California and eight were in the State of New York. These nine California and New York districts—the 21st in California; the 11th, 12th, 14th, 18th, 19th, 20th, 21st, and 22d in New York—included most or part of all of the major Negro ghetto areas—Watts, Harlem, Brownsville, Ocean Hill, Bedford-Stuyvesant, and the south Bronx.

In the largely Negro Watts congressional district in California, the 21st, only 95,000 persons voted in 1968, less than half the turnout in the average white congressional district.

It seems perfectly clear to me that when we debate today, and try to focus attention on vote frauds, on literacy or the need for banning literacy tests in one part of the country, we are deceiving ourselves.

If there is a proper way to include the entire 50 States in vote and election reform it should be done. It is my sincere hope that the chairman meant what he said, that he would give us early hearings if we do not get the job done today, to look at all the States. That is what we should be doing.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. DENNIS) to the substitute amendment offered by the gentleman from Michigan (Mr. GERALD R. FORD).

The amendment to the substitute amendment was rejected.

Mr. MIKVA. Mr. Chairman, I rise in opposition to the substitute amendment.

Mr. Chairman, a lot has been said about literacy tests. I believe the Members present on the House floor ought to take a little look at what the proposed substitute would do to the residency laws of their States. And because a part of the proposed substitute or the Ford amendment deals with making uniform residency requirements, this is a special matter which I could personally favor. I think in the national elections people ought to be allowed to vote notwith-

standing the fact that they may have moved in sometime prior to the time that the existing State law allows. However, this amendment was considered by the committee but was rejected for some reasons which I think are sound and which I think ought to be brought to the attention of the House.

First of all, there are some serious doubts concerning the authority of the Congress to approve a residency requirement for voting in presidential elections. There is no clear-cut decision that says Congress has that power.

Now, in addition to the questions concerning the constitutional validity of the amendment, there are a lot of reservations about the language in this particular proposal. I think it is clear that the proponents of the amendment intend for people to vote only for President and Vice President. However, as I read the language on page 2, I think that language possibly could be construed to mean that, in an election year when a President and Vice President were to be elected, a voter would be allowed to vote for all of the offices that were up in that election.

I cite that as another example of very technical language going into such troublesome constitutional seas and feel that it should not be brought to the floor of the House without full and deliberate consideration.

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

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

Mr. HANNA. In the State of California when the President is up for consideration in the 4-year period in that same election, the people would be selecting all of the assemblymen for the lower body of the house in the State and half of the senators and all of the Congressmen. Is it the gentleman's interpretation of the language that they get to vote in that election and that, in effect, this section would provide for them the right to vote for everyone even though they had moved out of the State?

Mr. MIKVA. The States involved in such restriction include Alabama, Arkansas, Delaware, Indiana, Iowa, Kentucky, Mississippi, Montana, Nevada, New York, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, West Virginia, and Wyoming.

In all of these States the present residency restrictions would be seriously affected.

In many States, I might point out to those of you who do not have absentee voting laws, I think they would be required to have an absentee voting system, or the Federal Government would have to run one for you, because the language says that absentee votes must be allowed.

I cite this again in support of my fundamental position on a uniform residency requirement for the election of President and Vice President. I favor it and I hope that the Committee on the Judiciary will at some future time consider such a proposal just as I hope it will consider the question of national literacy tests.

Mr. ROGERS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman from Colorado.

Mr. ROGERS of Colorado. If the requirements set forth in the substitute should be adopted, they would preempt the field and set aside all the State laws in that field; is that right?

Mr. MIKVA. Absolutely, in terms of elections.

Mr. ROGERS of Colorado. Mr. Chairman, if the gentleman will yield further, there are certain States that permit election for President and Vice President even though you have just moved into the State a couple of days before the election. That law would be set aside?

Mr. MIKVA. That is correct.

Mr. ROGERS of Colorado. And it would then go back to the 1st of September of that election year because it preempts the field and sets aside the State law?

Mr. MIKVA. I would answer the gentleman that I interpret the bill that way as it is proposed to be amended.

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

Mr. MIKVA. I yield to the gentleman from New York.

Mr. CELLER. Under the residency provisions of the substitute if a citizen moves into a State after September 1 and does not meet residency requirements for voting, he is given the right to vote in his former State of residence either in person or by absentee ballot. Twenty-nine States today permit new residents to vote for President and Vice President although they may arrive in the State after September 1.

What will assure that a new resident will not vote twice—once in his new State of residence, and a second time in his former State of residence? What machinery is prescribed in this so-called substitute to protect against dual voting? The answer is none.

The difficulty is that the opportunity for "double voting" is provided, but no safeguards against the practice are established.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CELLER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I will yield to the gentleman from Illinois (Mr. MIKVA).

Mr. MIKVA. I would like to answer that I agree with the gentleman completely that there is no machinery. Indeed, as I read the bill I do not believe it is even prohibited. I believe it is a sort of a Scout's honor proposition that you will not vote twice, but I do not read anything in the bill that would prohibit it at all.

Mr. CELLER. The States themselves would have to deal with the enforcement, and not the Federal Government; and would the States enforce it, or could they enforce it?

Mr. MIKVA. I do not see how they could enforce it, because they would not even have access to whether a person had voted in another State, or vice versa.

Mr. CELLER. In other words, is it not also true that the secretary of state or the attorney general of a State would be involved and would have to know all of the voting laws and residency requirements in every State in the Union; is that correct?

Mr. MIKVA. That is correct.

Mr. CELLER. In order for them to proceed with logic and simplicity in the matter.

Mr. MIKVA. In addition he would have to know who has moved in and out, and when they moved in and out in terms of whether or not they would be eligible to vote so that they would not vote twice.

Mr. CELLER. Is that not another emphatic objection to the so-called Ford-Mitchell substitute?

Mr. MIKVA. I would agree with the gentleman from New York, and that is also another example as to why we should hold hearings in order to perfect the legislative draftsmanship.

Mr. CELLER. Was that not also because of the fact that nothing of that sort was presented before the Committee on the Judiciary by either the Attorney General or anyone connected with him?

Mr. MIKVA. That is correct.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BIESTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think that most of the Members of the Committee share some of the concerns which this Member shares about legislation which is capable of being characterized as regional in nature. But, it seems to me that we make a mistake if we consider rights and responsibilities in our Federal system pursuant to an institutional focus only. I think the remarks of the gentleman from Illinos (Mr. ANDERSON) earlier today made an effort, and successfully, to establish the proposition that those rights are only in clear focus when they are brought sharply to bear on the rights and responsibilities of individuals, and not on the rights and privileges of institutions.

For example, an individual in this country has certain responsibilities to his State. Among them are, of course, paying taxes, obeying the police powers, and the State laws.

He has further responsibilities to his Federal Government, among those are his payment of Federal taxes, the obeying of Federal laws and, of course, his Federal military service.

Thus an individual experiences his responsibilities to both institutions, both at the State level and at the Federal level. By the same token each of those institutions at both levels owe him certain rights and guarantee him certain rights. At the Federal level it guarantees by the 15th amendment his right to assume a citizen's participation in American political life by the franchise. And we do not arrogate to ourselves in this body any new or special capacity or privilege when we seek to implement that right successfully.

Nevertheless——

Mr. ROGERS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. BIESTER. I yield to the gentleman from Colorado.

Mr. ROGERS of Colorado. Mr. Chari-

man, I thank the gentleman for yielding, and in view of what the gentleman has mentioned, may I direct your attention to page 3 of the substitute bill dealing with the question of absentee voting?

Now we know there are a certain number of States that do not have absentee voting. Yet, in section 3 on page 3 it says that they shall be entitled to vote by absentee ballot. How do you propose that those States that do not have absentee voting, how do you propose that they should vote?

Mr. BIESTER. I suggest to the gentleman that he save that question for one who supports the substitute—I do not.

Mr. Chairman, it seems to me we also face in the minds of those people who look to our institutions for the protection of their rights a very disturbing challenge.

Young black people in this country are caught, including those who have served honoraby in Vietnam, between the constant challenge of an insufficiently responsive society on the one hand, and militants who sow hate and separatism on the other.

These young people want to see the American political system work. They want to be able to tell the militants that the system works and that the future of black people in America lies within the free, fully franchised political life of America. They offer us faith in one America, and we must return that faith in kind.

Mr. Chairman, rights live only in the sure knowledge of their vindication. Let us, with this extension, continue that sure knowledge.

The disinguished minority leader has said that the States in question were asked to jump 6 feet and they jumped 6 feet.

I respectfully suggest that they did not jump 6 feet, they were dragged 6 feet.

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

Mr. BIESTER. I yield to the gentleman.

Mr. WATSON. Since you say that they did not jump but they were dragged 6 feet—in either event they made the 6 feet; did they not?

Mr. BIESTER. They made just 6 feet.

Mr. WATSON. That was all required and yet you do not reward them for that?

Mr. BIESTER. They made just 6 feet and they have to do more—if you changed the figure from 50 percent to 55 percent, they still would have to do more, they would still be covered.

Mr. WATSON. As I understand, with the standards set in the 1965 act, they made it but now you refuse to give them credit for it, but will change the requirements.

Mr. BIESTER. We will give them credit and we will ask them to do more. In fact, one of the States in question just made it with 50.

Mr. Chairman, I urge the rejection of the substitute amendment and urge the adoption of the committee bill.

Mr. WIGGINS. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I wish to speak primarily on a single subject because I detect a certain undercurrent of discontent on one side of the aisle about the substitute bill.

The point is the literacy test on a nationwide basis. I realize a great many Members feel that a literacy test is worthwhile and they may be reluctant to accept the substitute for this reason.

I want to say I have a great deal of empathy with you because I too feel there is merit in the literacy tests.

The shining goal which we seek to achieve, I think, is maximum participation by qualified voters.

We will not be a better Nation by encouraging political participation by those barely able to discern the difference between a polling booth and an outhouse.

States should be able to enact reasonable tests of competency to vote and those tests must be applied in a nondiscriminatory manner. Literacy as well as age can be such a reasonable test.

Therefore, I would prefer the continuance of reasonable and fairly administered literacy tests by those States which choose to do so.

But the Supreme Court has declared the rule in the Gaston case to be the law of the land. That case casts doubt on all remaining literacy tests in the 20 States now applying such tests.

Since Gaston is the law, I am reluctantly prepared to accept the abolition of literacy tests and urge my colleagues to do likewise.

In summary and in conclusion, the substitute bill is better than the 1965 act we now have.

It is constructive that any law be applied uniformly. It is constructive to deal with the subject of State residence requirements in presidential elections.

It is constructive to extend the power of the Attorney General to place examiners in any State, not just a few, and obtain injunctions in appropriate cases to prevent discrimination in voting.

Mr. Chairman, I urge the adoption of the substitute offered by the gentleman from Michigan (Mr. GERALD R. FORD).

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

Mr. WIGGINS. I yield to the gentleman.

Mr. PELLY. Mr. Chairman, I favor an extension of the Voting Act of 1965, and oppose the substitute. To begin with, I think the Voting Rights Act has been effective and I do not think this is any time to take a step backward. In other words, nearly 1 million persons have been added to the voting rolls since 1965 when this act was passed with my support.

Unfortunately, discrimination in voting rights still continues. It does more so in the South, but I do not wish to punish the people of any State. I just want to end discrimination where it exists.

The Commission on Civil Rights recommends continuation of this act and it has the support of other groups, including the AFL–CIO and the NAACP.

Mr. Chairman, let us not jeopardize the progress made in America in the past few years. Let us stand firm and, if we take any action at all, let us apply the same protection to minority citizens under this law, which applies to certain Southern States, to all the States of the Union.

Mr. POFF. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, may I express the hope that we will soon come to grips with the vote on the pending substitute.

I believe it would be in order at this time if the chairman would try to determine how many Members would like to address themselves to the question before the Committee and see if it is possible to agree on a time to close debate on this amendment.

Mr. CELLER. Mr. Chairman, I ask unanimous consent that all debate on the so-called Ford substitute, and all amendments thereto, conclude at 4 o'clock.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. WATSON. Mr. Chairman, reserving the right to object, I wonder if the able gentleman from New York, the chairman of the committee, will extend the time a little beyond that? There are many of us who have been seeking recognition who are not on the committee.

Mr. CELLER. Mr. Chairman, I will extend the time in the request to 5 minutes after 4 o'clock.

The CHAIRMAN. The gentleman from New York asks that all debate on the Ford amendment and all amendments thereto conclude at 4:05.

Mr. POFF. Mr. Chairman, reserving the right to object, may I ask is all this time coming out of my 5 minutes?

The CHAIRMAN. It will.

Mr. POFF. Mr. Chairman, I withdraw my reservation of objection.

Mr. GERALD R. FORD. Mr. Chairman, reserving the right to object, will the gentleman from New York, the chairman of the committee, amend the request to 4:15 and let the gentleman from Virginia make up the time he has lost on this discussion?

Mr. CELLER. Mr. Chairman, I amend the request to ask that all debate on the Ford substitute amendment and all amendments thereto conclude at 4:15.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The gentleman from Virginia is recognized for 5 minutes.

Mr. POFF. Mr. Chairman, first I would like to pay tribute to the committee and to this House. I am proud of the tenor the debate has taken. I am proud to be a member of the great Committee on the Judiciary. I am proud to have an opportunity to try to influence a decision which will be of great consequence to this Nation. Our decision should be made carefully.

Time will permit me to review only briefly the details of the Ford substitute. As indicated in the general debate, in five particulars the Ford substitute is nationwide in character and in impact.

First, the Ford substitute provides a nationwide literacy test suspension until January 1, 1974. I emphasize that it is not a nationwide test ban, but a nationwide test suspension. During the interval the nationwide Commission which

will be appointed under the Ford substitute will study the impact of literacy tests and other devices upon voter participation by minority groups. At the conclusion of that time, the Commission will report to the Congress its recommendations for additional legislation.

Second, the Ford substitute provides nationwide residency requirements for voting in presidential elections. In a colloquy a moment ago, it was indicated some of the language in section 5 of the substitute may be ambiguous. To the extent that it is ambiguous, I believe it is possible to cure the ambiguity by legislative history. To the extent it is impossible to do that, I suggest that the substitute in its present form is not the final posture the legislation will assume before it goes to the President's desk. It is now nothing but a vehicle, and the Congress in its two bodies and in the conference committee will have ample opportunity to work its will upon the final product.

Third, the Ford substitute provides nationwide authority for the Attorney General to station examiners and observers in every precinct in every jurisdiction in each of the 50 States. It is important to emphasize that the present Voting Rights Act does not give the Attorney General equivalent authority, and the substitute makes it possible for the Attorney General on his own motion, after receipt of the required complaints, to dispatch either the examiner in advance of the election or the observer on election day to make certain that no racial discrimination in the voting process is practiced.

Fourth, the Ford substitute makes nationwide the authority for the Attorney General to bring preventive injunction suit to prevent voter discrimination either by an individual or by a State or municipality. This, I submit, is a perfect answer to the argument that has been made repeatedly that the States presently covered by the Voting Rights Act may, after coverage of section 5 is lifted, return to their old discriminatory practices.

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

The Chair has noted the Members standing at the time the request for a time limitation was made, and each Member will be recognized for approximately 1½ minutes.

Mr. ARENDS. Mr. Chairman, I ask unanimous consent that my time be allocated to the gentleman from Virginia (Mr. POFF).

Mr. TALCOTT. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

The Chair recognizes the gentleman from Illinois (Mr. ARENDS).

Mr. ARENDS. Mr. Chairman, I yield to the gentleman from Virginia (Mr. POFF) for a question or a statement.

Mr. POFF. Mr. Chairman, I had just finished saying that the substitute offered by the gentleman from Michigan (Mr. GERALD R. FORD) makes it possible for the Attorney General to bring, in any jurisdiction in any of the 50 States, a preventive injunction suit. This, I suggest, is a perfect answer to the fear expressed repeatedly that once the States presently covered are allowed to escape coverage they will somehow backslide into old ways and begin again the discriminatory practices which preceded the 1965 Voting Rights Act.

Finally, Mr. Chairman, the thing which I believe is really at issue here today is the course this Nation intends to take. I most earnestly submit to this body that this Nation at this crucial time should not be compartmentalized. It should not be sectionalized. It should not be regionalized. At this critical time this Nation should be reunited.

When we speak of reuniting America we must all yield and all agree that old shibboleths, old passions and old prejudices must pass away.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from California (Mr. HANNA).

Mr. HANNA. Mr. Chairman, I should like to reemphasize to the Members that the measure we have before us has these problems connected with it. If Members will just read the language of the measure they are asked to vote upon—and whether it can be changed by some other body I leave to their discretion—the way we are going to vote on it is that it now provides that in the election in which the President and the Vice President are up it would give rights that do not exist under State laws in many of the States of the United States. It is going to preempt the existing laws insofar as those elections are concerned.

I suggest that, just as in my own State, it will affect voting on State officers and State issues. It will allow those who have moved out of the State to get involved in the total election.

Second, the problem has been drawn about how this is going to affect absentee voting. It will seriously affect absentee voting. It will give the possibility that we are going to have dual voting by the people who have moved.

I suggest that any measure which has these kinds of problems connected with it should be defeated.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Ohio (Mr. TAFT).

Mr. TAFT. Mr. Chairman, I rise in opposition to the amendment and in support of the bill as it was reported by the committee.

It seems to me there is something unique about the right to vote which ought to be mentioned here today. With many civil rights it is true, inevitably, that the claimed rights or at least the permissible conduct of others is affected by the granting of or the withholding of the rights of some other individual. That is not true of the right to vote.

For that reason it seems to me the very strictest requirements can and should be put upon protecting the right of each citizen of this country to vote.

The law we have passed does this. We do not know whether the amendment, should it be passed, would really work. I have my doubts, and I have heard doubts expressed by many other Members today.

We should not risk this. We should not take the chance that we would in some way hinder the progress and create the tremendous frustrations and the tremendous moral decay, which I believe could occur if there should be a backsliding on the progress we have made in this field.

If there are other nationwide concerns to which we should attend, it should be done in other legislation and should not be permitted to jeopardize the present requirements that have operated so successfully to strike at the problem where it lived in its most flagrant form.

I ask for the defeat of this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. DOWDY).

Mr. DOWDY. Mr. Chairman, I am in agreement with the statements that have been made, that every American must have an equal right to vote, and that the right to vote is the cornerstone of our Republic. However, I fear that in the light and under the circumstances those statements have been here made, they were sanctimonious piety.

Much has been said about discrimination on the part of several States. In fact, the 1965 Voting Rights Act is highly discriminatory, because it discriminated against six or seven of the States of the Union, leaving the remainder of the 50 States entirely without its scope, though many of them were just as guilty of discrimination. I believe some 12 or 14 discriminate against Puerto Ricans, including the State of New York. But the Members from those States call upon the heavens to protect them when any mention is made that the same law should apply to their States, as they wish to apply against a few of the States of the South.

And here in this debate, those same Members desire to compound the discrimination. They now want to continue the same discrimination, and compound it by reference to the 1960 census and the 1964 election. They know the reforms have been accomplished in the six or seven States, but in their hatred for the people of those States, they would not bring the law up to date. We will have a new census next year, before the present voting rights law expires; why not base a new law on the new census? We have had several elections including another presidential election since 1964—why base present actions on days long past—or why not revert to a date during Reconstruction days?

This committee bill would not apply to my State of Texas, but understandably, the southern people—not Virginians alone—are sensitive on this issue. They feel, with justice, that there are two classes of law in the United States—one for them—and another for the people of other States. And they can point to the unequal application of this voting rights law as proof evident. This law was framed to apply to them, and to them alone. The law is not concerned with violation of voter rights or voting fraud anywhere else. Mr. Chairman, it is intolerable and outrageous to have a double standard of law in a representative republic.

The hypocrisy in the committee bill is evidence in that it purports to relieve only the citizens and authorities of a few States from discrimination. Why should

the law not be the same for all 50 States, and apply equally to them? Any law passed by this Congress should apply equally and uniformly to all of the States. The evidence of this hypocrisy is more so, in that the committee bill proposes to reach back to the 1964 election, rather than the more recent 1968 election. Otherwise, the newer date would be adopted, and the bill extended to protect the citizens of all States. If we are to legislate in this field, why should we not extend it to cover the multiplied thousands of eligible voters who are omitted from the 1965 act, and who are excluded from the committee bill?

Mr. Howard Glickstein, the general counsel and acting staff director of the U.S. Commission on Civil Rights testified during the hearings on this bill in May of this year. He then stated:

> It would be very incongruous to have a literacy test being administered in one county, and in a neighboring county there was no literacy test.

It is just as incongrous as well as discriminatory to bar literacy tests in six or seven States in the Union, and permit such literacy tests in the remaining States.

I am fundamentally against intrusion by the Federal Legislature into matters reserved to the State legislatures by the U.S. Constitution. However, if this bill is amended by the substitute which has been proposed here, I will be inclined to support it.

Otherwise, I must oppose the bill, as I am fundamentally opposed to discrimination involving any legal rights, including the right to vote.

Mr. ANDREWS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. DOWDY. I yield to the gentleman from Alabama.

Mr. ANDREWS of Alabama. Mr. Chairman, I rise in support of the Ford amendment.

Mr. Chairman, when Congress passed the Voting Rights Act of 1965, it marked a new low in mockery of the Constitution and was clearly one of the darkest hours for this Nation since Reconstruction.

That was 5 years ago. Now the Congress is being asked to compound its earlier mistake by giving the act a new 5-year extension. Surely this punitive and purely sectional legislation is not going to stay on the books. Surely, somewhere during the course of history, Congress will abandon the notion that the end justifies any means and return to the Constitution as a basis for legislation.

The 1965 Voting Rights Act should die, just as the discriminatory legislation of Reconstruction Congresses passed on, and for two very basic and most important reasons.

First, the act was a carefully planned plot by the Johnson administration to deprive seven Southern States, and only those, of the simple right of equal application of the law.

State laws requiring literacy and moral character as conditions for registering to vote are suspended. Does this mean all State laws, Mr. Chairman? Oh no, it applies only in States which had less than 50 percent of its voting-age residents registered to vote on November 1, 1964, or in which less than 50 percent voted in the general election of 1964.

By no coincidence, the only States affected were Alabama, Alaska, Georgia, Louisiana, Virginia, Mississippi, South Carolina, and 26 counties in North Carolina and one in Arizona, Idaho, and Hawaii. And here it is 1969, and the Judiciary Committee wants to use a 1965 formula for another 5 years. How long will this body engage in punitive legislation?

Other States go right on using literacy tests and minimum education grade levels, and very probably anything else that they want to use. They do not worry about the Federal Government stepping in and running their elections, harassing and insulting their local voting officials. The Federal Government is preoccupied with seven of 50 States, and if this act is extended, the honeymoon can just keep right on going, and for seven States, the bondage will likewise go on and on.

Under the 1965 act, the Justice Department is permitted to conduct voter registration drives in various counties in a State. The counties are selected by the Attorney General on the basis of the relative lack of integrity of election officials, and considering the quality of the Attorneys General in the past, leaving such matters to his discretion is foolish indeed.

It might be proper to mention that funds used by the Justice Department to pay its "army of occupation" are Federal funds—part of which, of course, are provided by the very States now being used as whipping boys. The whole setup is constitutionally corrupt and outrageous.

The second major reason that the 1965 Voting Rights Act should pass from the scene is that it is unconstitutional—the most important consideration, if we still consider ourselves in the business of passing laws that do not depart from the Constitution.

The establishment of requirements for voting constitutionally lies within the province of the States. In passing this law, the Federal Government is deliberately infringing on the rights of the States.

The Voting Rights Act of 1965 gives the Attorney General the power to veto State legislation, in those few selected States, that in any way amends or modifies existing laws or which enacts any new regulations regarding any aspect of the election processes.

Therefore, these Southern States must come to Washington hat-in-hand to get Justice Department approval before any of these State laws can take effect. In other words, the 1965 Voting Rights Act presumes that State legislatures cannot be trusted to handle the duties given them by the U.S. Constitution.

The States' right to set residency requirements for voting should also be maintained. Let us remember, we vote for the President of the United States by States, and it is perfectly sensible that each State determine when a resident of that State is entitled to vote. The rights of the States have suffered enough, without further abuse by extending the 1965 Voting Rights Act.

Mr. Chairman, because of the 1965 Voting Rights Act, Alabama and other Southern States have been singled out for special harassment and humiliation. In the name of decency, civility, and indeed democracy, the act should die. The Civil War ended about a century ago. It is time that Reconstruction ended too.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Chairman, I want to say quite candidly and frankly that there is no recrimination involved in this legislation. The only purpose of the committee bill is to extend the existing legislation for a period of 5 years in order to provide all Americans with an equal right to vote.

Mr. Chairman, I think the Ford substitute is aptly named a substitute. However, it would substitute virtually nothing for something which has been demonstrated to be effective.

With reference to Negro registrations in the States which have been subject to the triggering provisions of the 1965 act, they have increased dramatically. For instance, in the State of Mississippi, Negro registrations have risen from 6.8 percent to 56 percent, and comparable improvements have been made in many other States.

With reference to legislation which has been objected to by the Attorney General, well, there are more measures that have been objected to in 1969 than in any previous year.

Mr. Chairman, we need this legislation extended now more than any other one thing.

The original legislation was recommended for a period of 10 years. That is the period of time for which we need it. So the 5-year extension is consistent with the original intent. Therefore, Mr. Chairman, I urge the overwhelming support of this bill on the part of the Members as they supported the 1965 Voting Rights Act.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. JACOBS).

Mr. JACOBS. Mr. Chairman, those who are familiar with police work know that the concept of selective law enforcement is well established and effective in the fight against crime. I think this really describes the difference between the substitute and the bill which has been reported by the committee.

Selective law enforcement means that you go where the crime is being committed and concentrate law enforcement efforts in that area, rather than spread the effort thin.

Mr. Chairman, I had occasion when I was a police officer to persuade the county commission in my area to put a stop sign at a dangerous intersection where we were averaging five personal injury accidents a month. For about a year after the stop sign was installed there were no personal injury accidents at that intersection. Then some irate citizen, who was arrested for running the stop sign and who had considerable in-

fluence with the county commissioner, prevailed upon the commission to repeal the ordinance setting up the stop sign and it was taken down. The personal injury accidents resumed just as before.

That is the real "southern strategy" scheme of the administration substitute.

There is only limited law enforcement personnel in the Justice Department and that personnel should be used where everybody knows the problem exists.

When the fire department is fighting a big fire at the lumber company, you do not send half the firemen down the street to the asbestos plant.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Chairman, the act of 1965 is very clearly an act to advance Negro voting rights. One need to read no further than the first sentence of the act to determine that. It is pretty hard to argue with success. The act has worked.

It is interesting to me to note that during the discussion today of the amendment in the nature of a substitute, now pending before us, not one of the advocates of this amendment has argued that it would do a better job than the committee bill in advancing the voting rights of Negroes. Therefore, my question is this: Why should we risk a step backward when we can be assured of continued further progress?

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. MCCULLOCH).

Mr. MCCULLOCH. Mr. Chairman, obviously my remarks will be brief.

I want to read a few words by the Very Reverend Father Theodore Hesburgh, president of Notre Dame and longtime member of the Commission on Civil Rights, from its very beginning, and the Chairman thereof, appointed as Chairman by the President.

This is a letter that was sent to the Attorney General under date of June 28:

DEAR MR. ATTORNEY GENERAL: I am writing to express my deep concern about the amendments to the Voting Rights Act which you proposed to the Subcommittee of the House Judiciary Committee on Thursday, June 26, 1969. The Commission staff is preparing a more detailed analysis which will be provided to you.

Your fourth proposal—to eliminate existing protection against manipulative changes in voting laws—is in no sense an advance in protection of the voting rights of American citizens. It is a distinct retreat. It is an open invitation to those states which denied the vote to minority citizens in the past to resume doing so in the future, through insertion of disingenuous technicalities and changes in their election laws.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Chairman, I ask unanimous consent that the time allotted to me may be yielded to the gentleman from Ohio.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. TALCOTT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. FISH. Mr. Chairman, I yield to the gentleman from Ohio.

Mr. MCCULLOCH. I thank the gentleman.

Mr. Chairman, continuing reading from the letter by Father Hesburgh to the Attorney General:

Under the present act, they cannot make such changes without prior approval of the United States District Court for the District of Columbia or of the Justice Department. Even so, at least one municipality in Mississippi's election last month changed election procedures without approval and in violation of the law, a defiance which your statement recognizes has not been unusual.

The CHAIRMAN. The time of the gentleman from New York has expired.

The Chair recognizes the gentleman from Michigan (Mr. HUTCHINSON).

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

Mr. HUTCHINSON. I yield to the gentleman from Ohio.

Mr. MCCULLOCH. Mr. Chairman, again continuing with the letter from Father Hesburgh to the Attorney General:

Your proposed alternative would turn back the clock to 1957, relying on the slow process of litigation to try to keep up with rapidly enacted changes in the laws. It would mean that the Department of Justice would not have notice of such changes before they went into effect. The inadequacy of litigation as the sole technique of protecting the right to vote was recognized by Congress when it passed the Voting Rights Act of 1965. Now is not the time to gut one of the act's key provisions.

I am also disturbed by our fifth proposal, which would add to the United States Govment yet another new Federal commission, this one called a "national advisory commission," to concern itself with voting discrimination and corrupt practices relating to voting.

You state that this new agency would be set up to study the effects which literacy tests have on minority groups, to study the problem of election frauds, and to report to Congress its findings and recommendations for any new legislation pertaining to the right to vote.

I am unable to understand what purpose such a new commission would serve that is not already within the authority granted by the Congress to the United States Commission on Civil Rights. The Commission on Civil Rights is, as you know, a bipartisan, independent agency, proposed by President Eisenhower and Attorney General Brownell in 1956 and established by Congress in 1957. Attorney General Brownell said at that time:

"When there are charges that by one means or another the vote is being denied, we must find out all of the facts—the extent, the methods, the results . . . The study should be objective and free from partisanship."

Under its statute, as amended, the Commission on Civil Rights has been directed to—

"Investigate allegations, made in writing and under oath or affirmation, that citizens of the United States are unlawfully being accorded or denied the right to vote, or to have their votes properly counted, in any election of presidential electors, Members of the United States Senate, or of the House of Representatives, as a result of any patterns or practice of fraud or discrimination in the conduct of such election . . ." 78 Stat. 251, 42 U.S.C. 1975c(a)(5).

Thus the Commission on Civil Rights has an ample mandate to investigate fraud in such elections, as well as to—

"Investigate allegations in writing and under oath or affirmation that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of their color, race, religion, or national origin . . ." 71 Stat, 635, as amended, 42 U.S.C. 1975c(a)(1).

The Commission has been vigorous over the years in investigating denials of the franchise and fraudulent election processes. Indeed, it was work by this Commission which helped lay the factual base for the Civil Rights Act of 1960 and 1964 as well as the 1965 Voting Rights Act. Our investigations have not been confined to cases of election fraud which involve discrimination against members of minority groups, though we have consistently found that the most flagrant frauds and abuses were directed against minorities.

Our investigations have not flagged. You have been provided a copy of a recent staff memorandum on the May 1969 elections in Mississippi. The Commission's numerous hearings and reports are filled with the results of our research on voting. Our publications which deal especially with voting rights include:

"Political Participation (1968); The Voting Rights Act of 1965: The First Months (1965); Voting in Mississippi (1965); Report of the Commission (1959).

The Commission's budget proposal for fiscal year 1970 already requests funds for a study of political participation of minority groups outside the south.

The Commission on Civil Rights, as you know, has recommended abolition of literacy requirements for voting throughout the nation. I gather from your testimony that you agree. Certainly, however, this recommendation would not prevent the Commission from re-examining that question thoroughly and with an open mind if Congress so desires.

It is generally conceded that the Commission on Civil Rights has developed great expertise in investigating complaints of violations of voting rights and in recommending steps for their correction. Indeed, the document on voting complaints outside the states covered by the 1965 Act, which you submitted for the record of the subcommittee, was a staff paper of this Commission. It would be totally incongruous to establish a new body, staff it, and fund it in order to duplicate the tasks which the Commission on Civil Rights was established under President Eisenhower to perform and continues to perform.

President Nixon on January 30 spoke of the need for—

"Cutting expenditures, increasing efficiency in Government operations, abolishing unnecessary agencies and eliminating duplication of efforts."

At a time when funds for all domestic programs are severely limited, and when the President in April asked his Advisory Council on Executive Organization to look for ways to eliminate duplication and waste, it would make no sense to spend millions of dollars, lose valuable start-up and staffing time, and add still another agency to the Federal bureaucracy to do a job that, to the extent our funds permit, is already being done. If more effort needs to be put forth, the Commission on Civil Rights stands ready to use its skilled staff and years of experience, to the extent Congress will provide the money. This nation should not waste the limited domestic funds which are available. I hope you will withdraw the proposal.

Sincerely yours,

THEODORE M. HESBURGH,
*Chairman.*

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr.

Chairman, the bill that we passed in 1965, was by far the most successful civil rights bill enacted in the history of the United States. The Committee on the Judiciary met in May, June, and July, and civil rights organization leadership, the Conference of Civil Rights consisting of 125 organizations, organizations of labor, the U.S. Commission on Civil Rights, and others, all testified before the Committee on the Judiciary, or sent statements in full support of the measure. And then, of course, the committee itself gave great bipartisan support to this extension of the 1965 act.

The problem, of course, is the proposal of the Attorney General known as the Ford bill, and the administration bill. Here again, civil rights organizations throughout the country and all minority groups consider the bill a disaster.

I also consider it a disaster, and I think that the colloquy that we have had here also indicates that it would be a disaster.

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

The Chair recognizes the gentleman from Minnesota (Mr. MACGREGOR).

Mr. MACGREGOR. Mr. Chairman, as a member of the Committee on the Judiciary for some 9 years now, I truly regret that I cannot vote for the Ford substitute.

I use the expression "regret" because of the high regard I have for the minority leader, but more importantly I use the word "regret" because there are very meritorious provisions contained within the Ford substitute.

Specifically, that part of the substitute which would suspend nationwide all literacy tests for a period of 5 years is badly needed. Second, that part of the substitute which would establish uniform residency requirements for voting for President and Vice President of the United States is highly desirable.

I truly hope that these two features can be written into the law of the land following hearings by the House Committee on the Judiciary early next year.

I have sought for months to fashion a bill which would extend section 4 and section 5 of the Voting Rights Act of 1965 and incorporate the best features of the substitute. I regret that I have been unable to do so.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri (Mr. BURLISON).

Mr. BURLISON of Missouri. Mr. Chairman, my vote will be cast against a straight and simple extension of the Voting Rights Act of 1965 and in favor of the administration substitute. I take this opportunity to briefly point out a couple of pertinent matters.

First, after observing elections in my district for three decades, I can say without fear of contradiction, a higher percentage of Negroes than whites vote there. Certainly this is no criticism of my Negro friends and constituents. Rather, is a commendation to them. I would vigorously contest any effort of intimidation or discrimination against them.

Next, it should be emphasized that I oppose literacy tests as a criteria for voter eligibility. In my opinion a lack of formal education does not deprive a citizen of the requisite judgment for casting an intelligent vote. I believe in applying this philosophy to all the States of the Union and not to those only of a particular region, and I would protect the vote of the unschooled citizen, whether he be black, white, red, or brown. The vehicle to do this is the substitute and not a simple extension.

The CHAIRMAN. The Chair recognizes the gentleman from Georgia (Mr. THOMPSON).

Mr. THOMPSON of Georgia. Mr. Chairman, the issue to be settled here today is one of whether or not the laws of the United States are going to apply evenly throughout the United States and whether a person is going to have a remedy available to him if he maintains that he is being discriminated against because of race, creed, or color, regardless of his place of residency. Not only whether he has a right of remedy if he is in the South but whether he also has a right of remedy in New York or Chicago or any other area.

I cannot help but feel that some of the resistance to this legislation may stem from the fact that some of the cities in the North may be somewhat concerned about having Federal voting registrars come into their areas.

I think it may be healthy if we had a situation where Federal voting observers did observe some elections in Chicago, New York and possibly not just based on race as related to this bill but on other factors as well.

Mr. Chairman, I urge the substitute be accepted by the House.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, I want my southern colleagues to listen to this: If they believe that this amendment limits the right of the Attorney General to exercise surveillance over their States, please harken to this.

The amendment provides in section 4 on page 4 that section 6 of the act be changed in order to permit the Attorney General of the United States to send examiners into any State in the Union.

This includes Texas and Florida which are not presently covered, and not just for 5 years, as section 4 and section 5 provide in the present act—but permanently. Now if you want the period in which there may be surveillance over elections to exist from now on forever until you repeal the act, then go ahead and enact the provision that permits the Attorney General to supervise your elections without the necessity of a court order — permanently — permanently — and not for 5 years—and not because there has been some showing of a presumption of discrimination because of low levels of registration and voting.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. LOWENSTEIN).

Mr. LOWENSTEIN. Mr. Chairman, I want to yield to the gentleman from Texas (Mr. ECKHARDT) so he can complete his line of argument. As most Members are aware, he has one of the finest legal minds in Congress, and all of us benefit enormously when he shares his experience and wisdom with us.

Before I yield, I want simply to suggest that this is an especially inappropriate moment to pass the first civil rights bill in our history that will weaken the statutory basis for enforcing civil rights. In this case the right that will be damaged is perhaps as basic as any in a free society: the right to vote. That is exactly what will happen if we adopt the substitute motion. And that is why Members who have carved their careers out of total resistance to the very idea of Federal legislation to protect voting—or any other—rights, are now to be found battling tooth and nail for what we are told is really an extension of the Voting Rights Act.

I include in the RECORD at this point a staff report of the U.S. Commission on Civil Rights. This report, prepared under the direction of the diligent and brilliant staff director Mr. Howard Glickstein, illustrates why the 1965 act should be extended. It is objective and points out problems in the administration of the act, but anyone who reads it with an open mind will have to realize that the need for such a law is far from ended.

The material follows:

U.S. COMMISSION ON CIVIL RIGHTS STAFF REPORT ON MAY 13, 1969, MUNICIPAL ELECTIONS IN MISSISSIPPI

Primary elections were held on May 13, 1969 by numerous Mississippi municipalities to choose candidates for the June 3, 1969 general election. The U.S. Commission on Civil Rights sent two attorneys to the state for a week to observe the elections and speak with many of the black candidates who sought political office and their supporters.

On May 13, 1969 Commission staff attorneys observed the conduct of the election in Fayette, Jefferson County; Woodville, Wilkinson County; Gloster, Amite County, Lexington, Durant, Goodman, and Pickens, Holmes County; and Belzoni, Humphreys County. Commission staff visited the polling places throughout the day and kept in contact with black candidates and their supporters in these cities. The rest of the week they spoke with black candidates and their supporters in other Mississippi towns. In all they spoke with black candidates or their campaign workers in 20 towns scattered among a total of 15 counties.

Most of the black candidates interviewed, regardless of whether they won or lost and regardless of whether they believed the election had been fair, believed that there would not have been as fair an election had it not been for the presence of the Federal Observers and the presence of numerous lawyers and others serving as poll watchers. Although there were criticisms of the manner in which the Federal Observers carried out their duties, not one black candidate in a county where Federal Observers were present believed the election would have been run in an honest manner were it not for the presence of these observers. In counties where Federal Observers were not present, there was a division of opinion as to whether there had been an honest election.

For convenience in reporting, the problems uncovered have been divided into four general areas:

1. Registration to vote.
2. Qualification as a candidate.
3. The conduct of the election.
4. The role of Federal Observers.

REGISTRATION TO VOTE

In many of the towns visited by the Commission staff, it was reported that black persons no longer have fears of adverse consequences if they register to vote. This was not true everywhere, however. In Woodville, for

example, a black candidate stated that people were still afraid to register to vote in Wilkinson County. As an example of the fear that still exists in the Woodville area, he noted that when three college students from Michigan State University who served as poll watchers for black candidates during the election had to leave the town very late at night, local black residents insisted that they be escorted to McComb by the Deacons of Defense. In Itta Bena there were reports of threats to bomb a black candidate's headquarters the night before the election. A guard was placed around the headquarters by local black persons the entire night. It was also noted in Woodville that several candidates who had held jobs either with the school system or the county had recently lost their jobs as a result of seeking elective office or because they were actively involved with the NAACP. Their contracts were not renewed after their involvement had become common knowledge.

A black candidate in Moorhead, in Sunflower County, stated that some black persons were afraid to register to vote for fear that white persons would take economic reprisals against them. A similar reluctance to register was reported in rural areas of Quitman County by a black candidate for office in Marks.

Problems in registering to vote for the city elections were widespread. Difficulties were reported in Summit, Pike County; Bolton and Edwards, Hinds County; Clarksdale, Coahoma County; Durant, Lexington and Goodman, Holmes County and Leland, Washington County.

A black candidate for office in Summit stated that black persons desiring to vote had difficulty in finding the Summit city clerk in order to register with him. Under Mississippi law, a voter must register with the county registrar and with the city clerk in order to vote in municipal elections. Section 3211 of the Mississippi Code provides that the registrar "shall register the electors of his county at any time" and section 3374–61 makes this provision applicable to municipal clerks, who act as registrars for municipal elections. Until the deadline for registering for the primary election had passed, the city clerk in Summit, who has another full-time job, was only available for registration between 3 p.m. and 7 p.m. on Tuesdays and Wednesdays. In the future, however, the clerk in Summit has reportedly agreed to register voters at any time, except on Sunday. Pike, the county in which Summit is located, has not been designated for Federal Examiners. It was reported that the town clerk in Edwards is in his office only from 9 a.m. to 11 a.m. Monday through Friday. Thus, it is very difficult for people who work during the day to register in the city.

In several of the towns noted above, county clerks did not inform the newly registered voters that it was necessary for him to register in the city as well. Thus, large numbers of black persons were unable to vote in municipal elections because they had not registered in the city, even though they had registered at the county courthouse.

In one town where no primary was held, but where black candidates were running as independents, two black voters alleged that the city clerk was present when they registered with the county clerk, and that he told them he would take care of the city registration for them. He did not, however, and their ballots were challenged. One black voter was told by the same city clerk, when she saw him in 1966 after having been listed by the Federal Examiner, that she already was on the city books. Her name, however, was not on the list and thus her ballot was challenged.

In another town, witnesses reported that the county clerk harassed black persons who attempted to register with her. In July 1968, a local civil rights volunteer took a crippled black woman and four other black persons (two to register, and two to help the crippled woman) to the clerk's office. The clerk refused to allow the crippled woman to sit while she was registering, instead forcing her to walk from table to table for different parts of the registration process. This took about 15 minutes, the clerk asserting that, after all, the woman would have to stand while voting. On two occasions—July 1968 and February 1969—this clerk allegedly sent a deputy out to buy spray deodorizer while black persons were being registered.

Another widespread problem was that a large number of names listed by the Federal Examiners were not placed on the city rolls. As a consequence many persons who had been listed by the Federal Examiners had their ballots challenged, while others, anticipating challenge, did not cast ballots at all. Such problems were reported in Woodville, Wilkinson County; Vicksburg, Warren County; Edwards and Bolton, Hinds County; Clarksdale and Jonestown, Coahoma County; Itta Bena, Leflora County; Marks, Quitman County; and Lexington, Durant and Goodman, Holmes County. In some of these cases the Federal Examiners failed to transmit the names of persons listed by them to the appropriate city officials.

In March, local campaign workers discovered that the names of 150 black persons in Itta Bena who had registered with the Federal Examiner were not on the city lists. This was brought to the attention of the Civil Service Commission office in Jackson. That office allegedly was able to get 108 of the names placed on the city books for the elections, but apparently determined or assumed that the 42 others lived outside Itta Bena. At the May 13 primary, an additional 12 black persons were allegedly turned away because they were not on the city lists, although they too had been listed by the Federal Examiner.

In one town, persons listed by the Federal Examiner, but whose names were not on the registration books, were permitted to cast challenged votes. When a ballot is challenged, the Democratic Executive Committee decides whether to count it. The chairman of the Democratic Executive Committee in that town is alleged to have said, in reference to challenges by poll watchers for black candidates: "Let them challenge all they want because the challenge comes through me and I will handle them the way I want."

When the Federal Examiner arrived in Holmes County in March, he apparently made no effort to publicize his presence. Commission staff talked to many local black persons—candidates and campaign managers as well as voters—who did not know he was in Lexington until his presence was discovered by accident on his last day there. Predictably, he did not list anyone during his visit to Lexington.

Lack of such publicity was a widespread problem throughout Mississippi. Little or no advance publicity was given in any of the counties. While some civil rights leaders were apparently informed of the presence of Federal Examiners, in most cases nothing else was done. As could be expected, few persons were listed by the examiners. A list showing the counties in Mississippi where examiners were sent and the number of persons listed is attached.

QUALIFICATION AS A CANDIDATE

In several towns primaries were not held even though black candidates had sought to run and thought they had qualified. The absence of a Democratic Party Executive Committee in those communities required candidates to use a different procedure for qualifying and the black candidates were not informed of this procedure.

In Friars Point, for example, where the Justice Department subsequently on May 17 filed a suit, black candidates sought to qualify for the primary by filing their papers with the County Democratic Party Executive Committee. The local newspapers allegedly reported that the black candidates had qualified for the primary. Shortly before the primary, however, it was announced that the black candidates had not qualified for the primary, because they allegedly had not complied with certain statutory requirements. Despite the fact that they had allegedly filed their papers several weeks before the deadline for qualifying either in the Democratic primary or as independents, they were not notified that they had not qualified until after these deadlines had passed. The Justice Department suit charged that "without general notice to the public [the defendants] altered the procedure for qualifying." This was done without obtaining the approval of the Attorney General as required by Section 5 of the Voting Rights Act of 1965.

In Centerville several black persons attempted to qualify to run in the May 13 primary for city positions. They filed the required notice with the city clerk in Centerville and with the Secretary of the Democratic Committee in Woodville. They were told by the clerk at the town hall in Centerville that the town did not have a primary election. They were not told, however, that there was a procedure for obtaining a primary election. To run in a municipal primary in a town without a Municipal Executive Committee it is necessary to petition the Chairman of the County Executive Committee to call a special meeting of registered voters. At this meeting a temporary Executive Committee is elected. This Committee runs the primary election. They learned from civil rights lawyers in Jackson, however, that even though they were unable to run in the Democratic primary they could qualify as independents if they obtained signatures from 75 registered voters. Three candidates were able to get the necessary signatures, even though they learned of this possibility the day before the filing deadline. Thus they were able to get on the ballot for the June general election. In North Carrollton, in Carroll County, and Pickens, in Holmes County, black candidates attempting to qualify as Democrats were told there was no primary and therefore had to qualify as independents. As in Centerville they were not told there was a procedure by which a primary could be held.

A black candidate in one town in Hinds County, however, was unable to qualify for election because she was unaware of the proper procedures to follow. She allegedly filed her papers to run for office with the town clerk before the filing deadline. Someone, however, told her that she had to take the papers to the Mayor. She returned to the town clerk, obtained her papers from him and took them to the Mayor who informed her that he had nothing to do with the election. She then went back to the clerk's office, but he had left. She returned the next day and gave the papers to the clerk, but was told that she was one day past the deadline and, therefore, the clerk refused to put her on the ballot.

In Woodville, black voters were totally excluded from a second unofficial "white primary." All the black candidates for the Democratic primary were defeated. However, black and white persons had qualified as independent candidates for mayor and alderman. Thus, there was a possibility that the white vote would be split since there were two white candidates and one black candidate for mayor and eight white and one black candidates for the five alderman positions. To avoid this, the county White Citizens Council sent a letter to all white voters asking them which white candidates they believed should withdraw from the race. They apparently were at least partially successful, as it was reported that one of the white candidates for mayor had withdrawn his name. A copy of the letter is attached to this report. In contrast to the tone of the letter, a campaign poster is attached illustrating the slogan used by several black candidates in the area: "Don't vote for a black man. Or a white man.

Just a good man. . . . Doesn't that sound good."

In Canton, some black candidates qualified to run in the Democratic primary; others running as independents will appear on the ballot in the June 3 general election. The city, however, allegedly redistricted the municipal boundaries eliminating a large number of black persons and adding a number of white residents. The city did not, as required by the Voting Rights Act of 1965 submit these changes to the Attorney General or the District Court in Washington, D.C. for approval. A suit was brought in Federal court and on May 10, 1969 the holding of a primary and general election was enjoined.

THE CONDUCT OF THE ELECTION

On the day of the primary, election irregularities occurred in a large number of communities in which black candidates ran.

Among the most frequent irregularities were restrictions upon the activities of poll patchers for black candidates. Title 14, section 3128 of the Mississippi Code states:

"Each candidate shall have the right, either in person or by a representative to be named by him, to be present at the polling place, and the managers shall provide him or his representative with a suitable position from which he or his representative may be able to carefully inspect the manner in which the election is held."

Despite this provision, election officials in Marks allegedly required poll watchers representing the black candidates to sit over 20 feet from the election tables. From that distance, they could not see enough of what was happening to do more than tally the ballots voted. In Jonestown, the election officials at first challenged the right of the student volunteer poll watcher to be there. After reportedly telephoning an outside source, the officials allowed these poll watchers to remain, but seated them so far back of the polling place, at the insistence of the manager, that they could not see the names on the books and thus could not carry out all of the normal functions of poll watchers. In Leland, where no Federal Observers were present, the election officials also allegedly required poll watchers for the black candidates to stand so far away from the tables that they were unable to check the qualifications of voters. And, although section 3164 of the Code specifically provides that candidates and their representatives have the right to observe and inspect the counting of the ballots, the poll watchers in Clarksdale were not allowed near the machines or tally tables during the tally of votes. They protested, but were not allowed closer.

Although many municipalities across the State had black election officials working at the polling places, only a few had more than a token number of black persons, and the black persons working in the polling places were under the supervision of the white election managers. In Woodville, Clarksdale, and other cities, white election managers were reluctant to render assistance to illiterates, although the courts have held that the Voting Rights Act of 1965 requires that this assistance be given, and that illiterates be informed of its availability. *United States* v. *Louisiana*, 265 F. Supp. 703 (1966), *aff'd per curiam*, 386 U.S. 270 (1967). In Vicksburg, a black election official was told that she could not help illiterates who asked for her assistance in voting. She was told that the election manager would appoint someone to assist illiterates needing assistance. He invariably appointed one of the operators of the voting machines, all of whom were white, despite the voters' requests that a black election official assist them.

In Lexington, a black election official is reported to have told a student poll watcher that the election officials had been instructed not to give or offer help to voters until the voter needing assistance asked them. In polling places throughout the State, illiterate voters frequently seemed unaware that assistance was available, but quickly asked for it when poll watchers for the black candidates informed them of its availability. Instructions such as those allegedly given in Lexington deprive such voters of the means of voting as they wish.

Sec. 3272 of the Mississippi Code provides that voters who are blind or disabled "shall have the assistance of one of the managers or other person of his own selection" in the marking of his ballot. In one instance in Vicksburg, however, a poll watcher reported that a blind woman was denied assistance by the "person of her choosing"—her black sister. A white official insisted on casting her ballot for her.

In Itta Bena, white election officials assisting illiterates reportedly tried to influence the illiterates not to vote for the black candidates. It was also reported in Vicksburg, where no Federal Observers were present, that black voters who did not request assistance often had white election officials entering their booth under the pretense of giving assistance.

In Itta Bena, an armed white deputy sheriff, apparently there to maintain order, sat between the two tables being used for the election, allegedly harassing black persons. As a result, some left without voting. The election officials made no effort to moderate his conduct. Also in that city, a white election official allegedly demanded that four black women give her their marked ballots, rather then place them in the box. The women now fear that their ballots were never counted.

In Vicksburg, one of the polling places for a largely-black area was reportedly changed without publicity. When black persons showed up at their regular polling place to vote, the election officials stated that there had been a change, but refused to aid the voters in finding their proper voting place. As a consequence, many of these persons did not vote. In Greenwood, one black voter was not allowed to vote until she had "hounded" the election officials for several minutes, although her name was on the voting lists.

In Clarksdale, four black persons attempted to vote, but were turned away because their names were already marked as having voted. One of the student volunteers felt that some of these instances were explained by there being more than one person with the same name registered but the name appeared on the lists only once. At first, the election officials refused to permit the casting of a challenged ballot; later, they relented. A white voter in this situation was allegedly allowed to vote by machine upon his oral statement that he had not already voted. The officials ignored the challenge of the student volunteers. After that, a black voter in the same situation was also permitted to vote by machine.

A slightly different variation occurred in Vicksburg. A number of voters of a predominantly black ward, and presumably also some in predominantly white wards, were unable to find their names on any books; their names had apparently been dropped for some reason. When a poll watcher at this ward requested that these persons be permitted to cast challenged ballots he reportedly was told that this was not the custom in Vicksburg, apparently because the city used machines. It was not until 1:30 p.m., six and a half hours after the polls had opened, that paper ballots were furnished for those persons whose right to vote had been challenged, notwithstanding sec. 3170 of the Mississippi Code which clearly establishes the procedure for the challenging of ballots.

In Lexington, local officials of the municipal Democratic Executive Committee allegedly purged the names of 83 black persons and 67 white persons from the poll books shortly before the election. An overwhelming majority of black voters in Holmes County had registered by being listed by the Federal Examiner. Although the local officials refused to give a list of those purged to representatives of the black candidates, it is likely that most of the blacks purged from the poll books had been listed by the Federal Examiner. Sections 7 and 9 of the Voting Rights Act of 1965 establish an exclusive procedure, including provision for a prompt hearing, by which allegedly unqualified voters listed by a Federal Examiner may be removed from a list. Even if intended in good faith, the alleged purge of the names of black voters from the poll books violated the procedural safeguards provided by the Voting Rights Act.

To challenge unqualified voters effectively, a candidate normally needs to be able to inspect the poll books some time in advance of the election, searching for names of persons still on them who are not currently qualified to vote. Sec. 3211 of the Mississippi Code requires that the "registrar shall keep his books open at his office," and sec. 3374–61 renders this provision applicable to municipal clerks. In one town in Holmes County, a black representative of the local black candidates stated that he had on three occasions attempted to see the voter registration books maintained by the city clerk in the clerk's office at a local bank. On each of these occasions, access to the books was allegedly denied, on the ground that business was too pressing. When white volunteers came to look at the books the day before the election, however, the clerk produced them at once.

In Edwards, Mississippi the chairman and and a few of the other members of the Municipal Democratic Executive Committee met without informing the black members of the committee. At this meeting they appointed a number of Negroes closely aligned with the white power structure in the city to serve as election officials and to aid illiterate persons in voting.

The Commission staff was unable to document an earlier report from Vicksburg that election officials had told hundreds of black voters that it was unnecessary to vote for two candidates, that they could cast a single ballot for the black candidates. This would have been contrary to the full slate requirement, and such ballots would not be counted.

THE ROLE OF FEDERAL OBSERVERS

Notwithstanding the general agreement among the black candidates interviewed, that the May 13 primary would have been far more unfair if the Federal Observers and volunteer student and lawyer poll watchers had not been present, there were serious problems arising from the manner in which some of the Federal Observers conducted themselves and from the policies under which they operated.

In Clarksdale, for instance, the Federal Observers frequently did not observe the assistance being given to illiterate black voters. In Goodman, they stationed themselves in a location from which it was impossible to see several of the voting booths, and consequently did not know when black voters in that part of the polling place needed assistance or when it was being given to them. Seats from which they could have observed all of the events in the polling place were available. In Woodville, the volunteer poll watchers on several occasions suggested to black voters needing assistance that Federal Observers were present, and asked if the voters wanted an observer present while they received assistance in casting their vote. At least one observer, when told by a poll watcher that a voter desired him to observe, stated "If the voter wants me, tell him to come over and get me."

In that town, a volunteer poll watcher—an out-of-state attorney—charged that the Federal Observers did not bother writing up a report of an incident in which a black

woman was handed a ballot, walked over toward the booth, but appeared uncertain about what she should do. As she approached the table an election official reportedly took the unmarked ballot out of her hand and placed it in the box. Despite vocal protests by poll watchers about this matter, the observers apparently felt the issue was too frivolous to report. During the counting of the ballots, a Commission staff attorney noticed that the Federal Observers, at first, were making a brief notation as to the reason each time there was a ballot on which votes were not counted. Later in the evening, however, he noticed that they appeared to have lost their interest, and failed to do this on several occasions.

Black candidates and poll watchers at the Woodville election were extremely critical of the role of the Federal Observers. One student from Michigan State University, a poll watcher for one of the black candidates, charged that the Federal Observers challenged their right to observe the election. After the poll watchers showed them the Mississippi statute which did not prohibit out-of-state people from acting as poll watchers, the Federal Observers challenged their right to stand near the table where the ballots and ballot box were kept. In both instances the local election officials upheld the right of the poll watchers.

The Commission in its 1968 *Political Participation* report criticized the Department of Justice policy of "keeping the Federal presence as inconspicuous as possible" when observers were sent into polling places. It recommended that the Attorney General "should announce publicly in advance of the election that Federal Observers will be present and should assure that the observers are identified as Federal officials."

This recommendation has never been implemented, and the Department kept secret, until the last minute, the cities and polling places in which Federal Observers would be present for the May 13 election. The reasons stated by the Commission for its stand in 1968, however, remain true today:

"The subdivisions where the assignment of observers is warranted are those in which there is a likelihood of discrimination at the polls. It is important for Negro voters in these subdivisions to know that observers will be present to deter local election officials from subjecting Negroes who attempt to vote to discrimination and the harassment, indignity, and humiliation which accompany it."

The Commission's recommendation that the observers be identified as Federal officials has, similarly, not been implemented. Across the State during the May 13 election, Federal Observers failed to identify themselves by word or by kind of sign or official insignia. In its 1968 report, the Commission stated that "identification of the observers [would] serve to confirm to Negro voters that they will be afforded comparable treatment with other citizens at the polls." Without identification of the observers and advance notice of their presence, black voters feel no such assurance. In one community visited by a Commission staff attorney, a black candidate did not know, two days after the election, whether a Federal Observer had been present. In Itta Bena, poll watchers for the black candidates knew that Federal Observers were present, but did not know which of the white persons standing about they were.

In its 1968 report, the Commission recommended that the Attorney General should "instruct Federal Observers that they have a duty to point out to local election officials irregularities affecting Negro voters . . ." One of the reasons for this recommendation was that, under the Department of Justice policy that observers should take "only such steps as may be necessary to fulfill the observational functions," and that the irregularities they observe should be reported first to the captain of the observer team, and then to a Department of Justice attorney, who will take it up with election officials, [m]uch or all of the election day may elapse . . . before the matter is settled."

In the May 13 primary, the Federal Observers acted only as passive recorders of events, refusing at all times to speak to the election officials about even the most blatant discrimination against black voters. A Commission staff attorney in Woodville was informed by a lawyer from the Civil Rights Division of the Department of Justice that it was Department policy that the Federal Observers were to speak with no one.

This meant that no Federal agent monitoring the election would speak to local officials about even the most obvious irregularities until the Justice Department attorney assigned to that county or pair of counties returned to the particular polling place. In Itta Bena, this process allegedly took three hours from the first time an irregularity was brought to the attention of the Federal Observers by local poll watchers—at which time the observers admitted that the black voter turned away was fully qualified to vote—to the time when the Justice Department attorney arrived. In that time, a total of 26 voters in that situation had been turned away. Local candidates and their poll watchers were given no information telling them how to get in touch with Department representatives more quickly.

Neither the observers nor the local election officials informed voters that they could have assistance in voting and that Federal Observers could watch the assistance being given. Only if a voter asked for such assistance or if he was unable to write his name was he told that such assistance was available. Since many illiterates are able to write their names but not able to read and understand the ballot, this limited provision of information left many black voters, needing assistance, ignorant of the possibility that assistance could be given and that Federal Observers could watch it as it was being given.

Although the stated policy was that the observers should talk with no one, a Commission staff attorney saw the observers in Woodville engage in animated conversation with the white election officials on numerous occasions. They did not seem to speak with poll watchers, black candidates or any local black people, however. Two observers there also refused to speak to the Commission staff attorney when he asked one for the number of persons who had voted and the other—the one who had allegedly challenged the right of the poll watchers for the black candidates to be there—for his name.

Some of the local black persons understandably felt that the observers were in sympathy with the white community. At one point in the afernoon, several poll watchers and at least one black candidate asked the Commission staff attorney if he could not get the Federal Observers out of the balloting place. On reflection later, however, these same persons agreed that there would have been widescale fraud but for the mere fact of the observers' presence.

SUMMARY

The election of some black persons to municipal office in Mississippi is evidence that some changes have occurred in Mississippi since the passage of the Voting Rights Act of 1965. Even with these victories, however, virtually all cities and towns in Mississippi will still be governed by all-white local governments.

Interviews with observations by staff attorneys suggest that this is in part due to the following:

1. Many black persons in Mississippi still fear economic or other reprisals if they register to vote or openly support black candidates.

2. Officials in some cases have made registration difficult for black persons by narrowly limiting hours for registration, by failing adequately to inform applicants of procedures required to vote in municipal elections, and in some cases by actually misinforming them as to these requirements.

3. Black persons continue to be excluded from serving as election officials in most areas of the State surveyed.

4. Officials sometimes failed to assist or misinformed black candidates seeking to obtain places on the ballot, and some were unable to run in the primary as a result.

5. The Voting Rights Act of 1965 establishes procedures to be followed before local officials change election requirements or procedures or remove from the poll books persons listed by the Federal Examiners. In many instances throughout Mississippi, local officials took such actions without observing the Act or any of the procedural safeguards provided by the election laws of the State of Mississippi.

6. The Federal Government neglected to take adequate steps to inform citizens of the presence of Federal Examiners and thus examiners listed relatively few voters in recent months.

7. Some Federal Examiners failed to transmit the names of persons listed by them to city voting officials, and as a result many black voters throughout the State had their ballots challenged or were turned away from the polls.

8. Although most black candidates believed that the mere presence of Federal Observers improved the honesty of election procedures, a number of election irregularities occurred even where Federal Observers were present.

9. The effectiveness of Federal Observers was limited by their failure to make their presence known to voters and by their failure to intervene at once when irregularities were observed.

U.S. GOVERNMENT MEMORANDUM

APRIL 3, 1969.

From: David H. Hunter.

Subject: Mississippi Voter Registration.

Federal Examiners were in Mississippi to list persons to vote on four Saturdays in March. This was the only listing in Mississippi by Federal Examiners in 1969 prior to the holding of the municipal elections. A hyphen is used to indicate that no Federal Examiner was in the county on that date. The results are as follows:

| County | Mar. 8 | Mar. 15 | Mar. 22 | Mar. 29 | Total |
|---|---|---|---|---|---|
| Amite | 0 | 0 | 5 | ---------- | 5 |
| Benton | ---------- | 0 | 0 | ---------- | 0 |
| Carroll | 0 | 1 | 1 | ---------- | 2 |
| Clay | 0 | 0 | 0 | ---------- | 0 |
| Coahoma | ---------- | 0 | 0 | ---------- | 0 |
| De Soto | ---------- | 0 | 0 | ---------- | 0 |
| Forrest | ---------- | 0 | 0 | ---------- | 0 |
| Franklin | ---------- | 0 | 17 | 10 | 27 |
| Hinds | 0 | 35 | 43 | 80 | 158 |
| Holmes | 0 | 0 | 0 | ---------- | 0 |
| Humphreys | ---------- | 11 | 14 | 1 | 26 |
| Jasper | ---------- | 2 | 1 | ---------- | 3 |
| Jefferson | ---------- | 8 | 0 | ---------- | 8 |
| Jefferson Davis | ---------- | 0 | 1 | ---------- | 1 |
| Jones | ---------- | 2 | 2 | ---------- | 4 |
| Leflore | 22 | 58 | 78 | 108 | 266 |
| Madison | 0 | 19 | 68 | 68 | 155 |

| County | Mar. 18 | Mar. 15 | Mar. 22 | Mar. 29 | Total |
|---|---|---|---|---|---|
| Marshall | 0 | 3 | 0 | | 3 |
| Neshoba | | 2 | 1 | | 3 |
| Newton | | 0 | 2 | | 2 |
| Noxubee | | 0 | 42 | 30 | 72 |
| Oktibbeha | | 37 | 15 | 13 | 65 |
| Rankin | | 0 | 0 | | 0 |
| Sharkey | | 9 | 18 | 10 | 37 |
| Simpson | 2 | 0 | 25 | 25 | 52 |
| Walthall | | 13 | 5 | 22 | 40 |
| Warren | | 12 | 8 | 16 | 36 |
| Wilkinson | | 16 | 11 | 1 | 28 |
| Winston | | 0 | 8 | 5 | 13 |
| Total | 24 | 228 | 365 | 389 | 1,006 |

MAY 20, 1969.

DEAR FELLOW CITIZEN OF WOODVILLE: Your local Citizens Council is gravely concerned about the political prospects in the Woodville Municipal General Election which will be held on June 3rd, and we feel sure that you, as a public spirited white citizen, are equally concerned.

First, may we emphasize the fact that we have no axes to grind nor political fortunes to favor or oppose as to individuals, but are taking this action purely and simply to endeavor to insure that white officials are elected on June 3rd.

As you doubtless know, the present prospects in the Mayor's race present two white candidates and one negro candidate. In the Alderman race, there are eight white candidates and one negro. In both instances, the negroes are thus virtually assured of election.

We feel that forgetting personal ambitions or desires, some of the white candidates should withdraw so that there will be only one white candidate for each office. It is our understanding that some of the candidates are agreeable to this, provided it can be ascertained which ones the majority of the white voters favor.

In an attempt to determine the wishes of the white voters of Woodville, we are therefore, conducting a "straw vote" election which we feel will be of tremendous assistance in working out a compromise—provided you, the voters, co-operate by taking part.

We are enclosing herewith an unofficial ballot which we ask that you mark in private, seal in the enclosed envelope, and return immediately by mail. You will note from the enclosure that there is no way your ballot can be identified, and your vote will thus be secret. As soon as possible, since the deadline for printing the Official Ballot is very near, we will open these envelopes and tabulate the vote—in the presence of all candidates or their representatives. From the resulting tally, we hope to be able to effect a compromise settlement of this grave issue which faces us all.

Please do not delay. Time is of the essence. Please mark and return the enclosed ballot today.

May we thank you in advance for your co-operation, and again assure you that our only motive in undertaking this project is public service in what we feel is the best interests of the Town of Woodville.

Sincerely,

WILKINSON COUNTY CITIZEN COUNCIL.

STRAW BALLOT

(*Not an Official Ballot)

FOR MAYOR—TOWN OF WOODVILLE

(Vote for One)

W. H. Catchings ( )
Marvin N. Lewis ( )

FOR ALDERMAN—TOWN OF WOODVILLE

(Vote for Four)

J. M. (Mac) Best ( )
Thomas M. Bryan ( )
Pat Cavin ( )
Cage Chisholm ( )
H. B. Curry ( )
Anthony David ( )
James (Jabbo) Herrington ( )
Brandon Inman ( )

(*NOTE.—This is not an Official Ballot, but merely an attempt by the Citizens Council to ascertain the candidates preferred by the majority of the white voters of Woodville. See letter attached.)

Mr. ECKHARDT. Mr. Chairman, if I am not correct about this, I should like to be corrected.

As a matter of fact, I heard the gentleman from Virginia (Mr. POFF) rise on the floor a minute ago and state quite correctly that section 3 of the act is a permanent provision of the act and only permits the Attorney General after an action in court to bring action to appoint examiners.

This does not now apply all over the United States under the present act, but it would apply nationwide under the act as amended.

Under the present act in sections 4 and 5, it limits the authority of the Attorney General to appoint examiners, as provided in section 6 to the situation where registration and voting were below 50 percent in the 1964 election.

A court order has nearly always been required as a matter of practice and a court order would have to be obtained after the conclusion of the 5-year period.

But under the amendment, no court order would be required and examiners and registrars could ride all over the United States through the South, the North, and all over and apply their surveillance to elections throughout the country. Though I am willing to apply somewhat drastic cures to drastic ills, I do not believe it desirable to grant permanent authority to an appointive official to ride herd over elections all over the country—even though there is no inkling of wrongdoing or discrimination.

The special temporary authority under sections 4 and 5 of the existing act was an authority granted in a special circumstance where well established evidences of enormous abuse had been adduced. The authority, as has been pointed out, was limited in time and territory. But the authority granted in this amendment is broad and permanent. I am not willing to so extend the authority of an appointive office without the guidance or limitation of a court.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. BIESTER).

Mr. BIESTER. Mr. Chairman, we are nearing the end of debate on the substitute and it seems to me the most important thing we should recall is that the enforcement section of the voting rights bill is the heart of the subject.

What we would be requiring those presently disenfranchised in the States covered by the bill to do—were we to adopt the substitute—would be to put them back in the game of catchup football. I urge defeat of the substitute.

The CHAIRMAN. The Chair recognizes the gentleman from Louisiana (Mr. WAGGONNER.)

Mr. WAGGONNER. Mr. Chairman, the gentleman from Texas (Mr. ECKHARDT) attempts to strike fear in the hearts of southerners by painting a picture attempting to portray the awful things that will happen if the Members vote for this substitute and give the U.S. Attorney General authority to do in all States what can be done now in only a few Southern States.

Let me tell the gentleman from Texas (Mr. ECKHARDT), as a southerner, this is exactly what we want to do. We want to spread the blessings around. Since we have been chosen for special blessings because we are southerners, we want everyone else to enjoy those blessings, everyone who thinks they have been so good for us. This is exactly what we want to do. If the present law is so good why not let it apply to everyone and all States alike.

We want others to see how high-handed and unfair people like Ramsey Clark as Attorney General of the United States have been. We want others to feel the wrath of these people who ignore the law and abuse States who live within the law.

We feel if they feel this, they will come back and write some different and fair-minded legislation. When other people are discriminated against as we have been, then, perhaps something will be done. Vote for the substitute. Treat everyone fairly. I believe the present Attorney General will administer the law with equity. I believe he is a fair-minded man.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. DENNIS).

Mr. DENNIS. Mr. Chairman, I yield to the gentleman from Michigan (Mr. GERALD R. FORD).

Mr. GERALD R. FORD. Mr. Chairman, I am grateful to the gentleman from Indiana for yielding.

Mr. Chairman, I would like to make this observation and comment. If we are interested in maximizing the opportunity for people to register and to vote in all 50 States, then we should support the substitute amendment which I offered.

I might say to those who have been most vigorous in their advocacy of increasing registration and voting for Negroes, I believe that if we really believe that, then we can maximize it in all 50 States by my substitute. But the principal point is that I feel what we ought to do is to treat all States alike and all people alike. That is what the substitute does.

One other observation: As I said in my remarks yesterday and today, there is a deeply imbedded principle in our philosophy, in our American heritage, that one is presumed innocent until he is proven guilty. The law that has been on the statute books turns that around and has presumed seven States guilty until they were able to prove their innocence. Five of them, on the criteria we established 5 years ago, have proven that innocence. I think it is unfair and it is

inequitable to keep them in continuous servitude for another 5 years.

Mr. Chairman, I therefore believe that the way to remedy it is not to make the other 43 States be in the same condition, but to make the seven equally treated with the other 43. I strongly believe that the nationwide legislation which I have offered to this body should be approved, and all States and all people will be treated one and the same.

Mr. McCULLOCH. Mr. Chairman, will the gentleman yield for a question?

Mr. GERALD R. FORD. I yield to the gentleman from Ohio.

Mr. McCULLOCH. Mr. Chairman, would the gentleman from Michigan please tell us how his substitute would maximize the registration of blacks in the States affected, using my own State, about which I know. How would the legislation maximize that in Ohio?

The CHAIRMAN. The time of the gentleman from Michigan has expired. The Chair recognizes the gentleman from South Carolina (Mr. WATSON).

Mr. WATSON. Mr. Chairman, earlier the distinguished chairman of the Judiciary Committee quoted the prophet Leviticus when he said: "Proclaim liberty throughout the land and to all the people," but yet the gentleman said we should protect that liberty to vote only in six Southern States.

The question is not whether or not we are going to protect the voting right of the black American for under the substitute those rights would be protected. The question is whether or not we are going to protect that voting right in every State of the Nation. We have to resolve this question in our mind.

If the Members believe that we should continue a discriminatory piece of legislation and reward those six Southern States who have tried, whether they were dragged there or voluntarily went there, by putting them under 5 years of additional servitude, then they can vote for the proposal as it is.

But your constituents back home will ask: Why do you demand to protect the rights of the black man in the South but do not support a measure to give the same protection to the black man in your district in the North? That is the question one has to ask.

Mr. Chairman, I am strongly against any Federal voting standards, inasmuch as the Constitution provides that qualifications of electors are the prerogative of the individual States. But, if the 1965 Voting Rights Act is to be extended, it must be expanded so as to apply to all States of the Nation rather than six Southern States, including my beloved South Carolina.

In my judgment, if the present law is not broadened to include every State in the Union, then most certainly that in itself would be an admission that the 1965 act was conceived in vengeance, passed in prejudice, and continued in hypocrisy. As our able minority leader said when he was supporting his substitute which would remove this yoke from the neck of the Southern States, "there should be no second-class citizen in America and neither should there be a second-class State." For the proponents of the simple 5-year extension of this entirely southern measure to quote from the Civil Rights Commission in justification of their position is to rely upon a source which will never be satisfied unless the South is totally severed from the Nation.

Then, too, it is inconceivable that some of our colleagues from the North are so zealous in demanding rights for the black man in the South while denying those same rights to the black man in the other sections of the Nation.

Certainly the garnering of a vote is not so important to anyone as to warrant making the South the whipping boy of the Nation. We are proud people, and while the Federal lashes may be applied to our backs, they will never make us succumb to admitting the constitutionality of an unconstitutional measure.

The most incredible aspect of the whole argument is that while it is an admitted fact that my State and four other Southern States have met the 50-percent qualification in the last 1968 general election, the authors of the straight 5-year extension refuse to use the latest election figures, continuing to insist upon the use of the 1964 election results.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. RYAN).

Mr. RYAN. Mr. Chairman, the question before the House is whether or not the key provisions of the Voting Rights Act of 1965 shall be scrapped—whether or not the clock shall be turned back to the days when there was wholesale discrimination in the right to vote and no effective remedy.

A big point has been made about the fact that certain States had voting participation in the 1968 presidential election of a little more than 50 percent. This turnout reflects the impact of the act and should not be used to escape the very provisions which made it possible.

I refer the Members of this Committee to page 4 of the report, which points out that in many counties in these States, less than 50 percent of the voting-age blacks are registered.

In 1968, for example, in Alabama, less than 50 percent of those of voting age were registered in 27 of 67 counties. In five counties the black registration was less than 35 percent.

So it goes in Georgia, Mississippi, and South Carolina.

The report states at page 4:

> Although statewide totals do reflect increases, a substantial number of counties still disclose extremely low Negro registration. For example, in Alabama, less than 50 percent of Negroes of voting age are registered in 27 of 67 counties; in five counties, Negro registration is less than 35 percent; in Georgia, less than 50 percent of Negroes of voting age are registered in 68 of 152 counties; in 27 counties it is less than 35 percent; in Mississippi, less than 50 percent of Negroes of voting age are registered in 24 of 82 counties; in six counties it is less than 35 percent; in South Carolina, less than 50 percent of Negroes of voting age are registered in 23 of 46 counties; in three counties it is less than 35 percent.

It is important for us to continue section 4 and section 5 so that the right of people to vote will be protected in those areas.

The Ford substitute, which fits neatly into the administration's southern strategy, eliminates the automatic features of the 1965 act which have made it effective. By removing section 5, this retrogressive proposal opens the door wide to all of the old stratagems and maneuvers which were employed to deny access to the ballot box to black Americans.

If the administration were really concerned about protecting the right to vote nationwide, then it would urge extension of the 1965 act instead of using its power to cripple it. The Attorney General could have advocated an extension of the essential remedies combined with a complete ban on literacy tests. Why did he not? The Department of Justice easily could have drafted such legislation.

I have always opposed literacy tests in every part of the country. I first introduced legislation to abolish literacy tests during my first term in the 87th Congress, H.R. 8901, and I reintroduced legislation in the 88th Congress, H.R. 6029, and the 89th Congress, H.R. 2477. In this Congress I am a sponsor of H.R. 15146, along with the gentleman from Michigan (Mr. CONYERS). The chairman of the Judiciary Committee has assured us that the Judiciary Committee will hold hearings early in the next session of this Congress. Legislation banning literacy tests should be enacted in addition to the present Voting Rights Act. The vice of the Ford substitute is that it weakens the present law. For that reason it is opposed by the U.S. Commission on Civil Rights which said:

> The administration's substitute is a much weaker bill.

Roy Wilkins, director of the NAACP, who is also chairman of the Leadership Conference on Civil Rights, which comprises 125 national organizations, has written to Members of Congress urging defeat of the substitute.

Now is no time to retreat. The Voting Rights Act of 1965 should be extended.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Chairman, we are dealing today perhaps with the most vital and basic and fundamental right of all; that is, the right to vote in this great land of ours.

Extension of the Voting Rights Act of 1965 will serve as our legal and moral commitment — necessary and unimpeachable—to the cause of equal rights.

While the administration proposal in the substitute contains some excellent points which should be studied carefully by the Judiciary Committee, it also contains one point that guts the enforcement provisions of the Voting Rights Act of 1965.

If we vote for the substitute today we can properly be accused of gutting the Voting Rights Act that guarantees this most fundamental civil right of all, the right to vote.

The CHAIRMAN. The Chair recognizes the gentleman from Colorado (Mr. ROGERS).

Mr. ROGERS of Colorado. Mr. Chairman, I yield to my colleague from Colorado (Mr. EVANS).

Mr. EVANS of Colorado. Mr. Chair-

man, I rise in opposition to the substitute and in support of the committee bill.

Why is it that the President, the minority leader and others want to let these sections of the 1965 Voting Rights Act expire?

To find the answer we should look at the effect of these sections during their existence over the last 4 years. We all know that the effect of these sections has been to allow and encourage more registration and more voting of Negroes in the last 4 years, in some States, than at any time since the Civil War? Is is as simple as that.

This has been true because the burden of proof has been placed upon States, rather than on individuals, under certain circumstances, to show that the laws, rules, and procedures of the State do not discriminate.

Well, then, who complains of these sections and why? First, those who believe the dignity and sovereignty of their State has been diminished by their operation. And, second, those who fear and do not want Negroes to register and vote.

Therefore, I must conclude that the purpose of the position urged by the President and by the minority leader, Mr. FORD, is to encourage those who would like to return to the old ways of discrimination to believe that they may begin again to reconstitute the disadvantages and impediments to the registration and voting of Negroes in their States.

Mr. ROGERS of Colorado. Mr. Chairman, may I point out that the substitute was introduced on July 9, 1969, and that the hearings in connection with this legislation had been concluded on July 1, before the committee recessed the substitute. No one had an opportunity to cross-examine witnesses in connection with the language of the proposal. Hence I believe it is not proper that we should adopt it at this time.

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

Mr. ROGERS of Colorado. I yield to the gentleman from New Jersey.

Mr. HUNT. Mr. Chairman, I want to express my support for H.R. 12695, the proposed "Nationwide Voting Rights Act of 1969."

We must, in my opinion, broaden the coverage of the Voting Rights Act of 1965. The bill reported by the Judiciary Committee (H.R. 4249) would merely keep in force for an additional 5 years the provisions of the 1965 act. In contrast, the bill which I support would afford nationwide protection of the right to vote.

A key feature of the nationwide bill is the provision suspending the use of all literacy tests. Perhaps, at one time there was justification for making literacy a prerequisite for registering to vote. However, there is no longer a proper basis for such a requirement. Radio and television are available to the overwhelming majority of households and give broad coverage to elections and to public questions generally. We are no longer dependent upon the printed page as the sole source of information regarding candidates and issues.

Most States have either abolished the literacy test or have never made the ability to read a precondition for voting. H.R. 12695 would suspend literacy tests in the 20 States which retain such a requirement. I submit that this measure embodies a proper concern for the rights of the undereducated, in whatever part of the United States they may reside.

I urge the adoption of H.R. 12695, the substitute nationwide voting rights bill offered by Mr. FORD.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. Mr. Chairman, I ask unanimous consent to yield my time to the gentleman from Washington (Mr. MEEDS).

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. TALCOTT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. GIBBONS. I will use the time, then, Mr. Chairman.

The CHAIRMAN. The gentleman from Florida is recognized.

Mr. GIBBONS. Mr. Chairman, I guess I am about as southern as anyone in this Chamber by geography and by heritage, but I cannot support the substitute proposed by the gentleman from Michigan (Mr. GERALD R. FORD), though I must admit it looked rather attractive the first couple of times I looked at it.

Down in my part of the country, ever since I have been big enough to know anything about it, we have not been discriminating against the right of Negroes to vote. We have encouraged them to vote and to register. Our elections have been conducted honestly.

I regret that my other colleagues from some areas of the South find themselves in a bind, so they cannot meet the nationwide test of just 50 percent of the people in their own jurisdictions being registered and able to vote. I hope this deficiency will soon be remedied. In the meantime, I doubt that the Ford substitute will be of much help.

The CHAIRMAN. The Chair recognizes the gentleman from Washington (Mr. MEEDS).

Mr. MEEDS. Mr. Chairman, I rise in opposition to the substitute amendment.

I was particularly struck by the argument of the distinguished minority leader when he offered his substitute. If I correctly understand that argument, it was that the Attorney General could move in, that the Attorney General would have the power to do this and to do that.

Before we turn over this vast power and authority to the Attorney General I believe we ought to examine his track record in similar areas where he presently has such power and authority.

Mr. Chairman, on August 25 of this year the Attorney General had the power and authority to move into the 33 Mississippi cases and ask for immediate implementation of HEW plans. He did not do so. Instead, through his deputies he moved for a delay.

Mr. Chairman, on October 29, he had the power and authority to appear before the U.S. Supreme Court in Holmes against Alexander and speak out for immediate integration of 16 of the 33 Mississippi school districts. What did he do? He had his deputies appear and seek further delay.

To the great credit of the Supreme Court they disagreed unanimously with his position and the case was remanded to the Fifth Circuit Court with instruction of immediate integration.

Mr. Chairman, thereafter the Attorney General had the power and authority to appear before the Fifth Circuit Court and move for immediate integration of the 33 school districts in the consolidated cases. In all instances there were plans for integration before the court.

How did the Attorney General exercise this power and authority? He instructed his deputies to urge of the court further delay and further planning. This despite the holding of the U.S. Supreme Court in Holmes against Alexander requiring immediate integration. In fact the Supreme Court specifically set forth that the plans of the 16 districts before the court in that case could be implemented immediately.

Again the Attorney General found himself on the wrong side of a court order requiring haste in integration as the Fifth Circuit Court ordered immediate implementation of 26 of the 33 plans.

Further, Mr. Chairman, immediately after the decision in Holmes against Alexander the Attorney General had the power and authority to move in hundreds of cases before various courts in the South, where there are plans filed, for immediate implementation of those plans. This could be done by simply filing so-called "Holmes" motions. My latest information is that there have been a number of these motions prepared for nearly a month but still they have not been approved for filing by the Attorney General.

I submit that if we pass this substitute which gives the Attorney General new powers and authority in the field of civil rights and then sit back and wait for him to exercise that power and authority we may have a long wait.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Chairman, the record is clear that the substitute, if adopted, would repeal necessary portions of the 1965 Voting Rights Act.

I call to your attention some rhetoric which we have heard here this afternoon. The distinguished minority leader said he does not want to keep those five States in servitude any longer. That sentiment was echoed by the gentleman from South Carolina (Mr. WATSON).

Mr. Chairman, for heaven's sake, is it to be considered servitude if we require States to let all their citizens vote regardless of their race or color? What kind of nonsense is that?

Mr. Chairman, the minority leader who proposed the Mitchell substitute tells us that in his opinion it does a better job of promoting voting rights than does the 1965 Voting Rights Act. That opinion is apparently shared by the gentleman from Louisiana (Mr. WAGGONNER). It is, however, vigorously opposed by Mr.

CELLER and Mr. MCCULLOCH and Father Hesburgh, president of the Civil Rights Commission, and by every element of the leadership conference, an association of organizations responsible for so much public support for civil rights legislation in the past.

Oh, yes, by way of postscript, the architect of this great substitute was, I understand, Attorney General Mitchell; architect of the "southern strategy" alluded to a few moments ago by the gentleman from Virginia (Mr. SCOTT). That "southern strategy" is the theory of some Republicans that if they turn their backs on racial justice, if they pander to segregation and discrimination, that they can somehow build a national party of majority stature. Such a tactic is immoral, unconscionable, patently destructive to the Nation, and in the long run, doomed to failure. It will, I am confident, be rejected by an overwhelming number of Americans, both Democrats and Republicans. The gentleman who proposes the substitute gives us a glowing report of the good faith of the States covered since 1965 by the voting rights bill. How naive does he take us to be? Where was that good faith in the 5 years before Federal intervention, 5 years during which black Americans were fired from their jobs, driven from their homes and assaulted and in some instances killed to prevent their exercising their right to vote. And where will that good faith be if the minority leader succeeds in destroying the law which has given those black Americans access to the ballot box. He knows and I know that it will be precisely the same good faith that was experienced before 1965.

Mr. Chairman, the gentleman from Connecticut (Mr. MESKILL) took exception to an earlier suggestion I made that one should look at the players in deciding which side to support in this controversy. With all due respects to my distinguished colleague from Connecticut, I was not referring to him. I did not have him in mind as one I look to for guidance in evaluating civil rights legislation.

I must say when I see the gentleman from Ohio (Mr. MCCULLOCH) and the gentleman from New York (Mr. CELLER) opposed by the coalition of the minority leader and the gentleman from Louisiana (Mr. WAGGONNER), I am really in no doubt about who is for racial justice and who is against it.

I urge rejection of the Ford substitute. Its passage would represent the first step backwards in a century in civil rights legislation.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. CELLER) to close debate.

Mr. CELLER. Mr. Chairman, what we want to do with reference to this amendment is to prevent color voting. We want voting to become colorblind.

Mr. Chairman, the Attorney General can go anywhere in the country he chooses and attack voting discrimination. Under the 1965 act he is authorized to institute suits to protect against impairment of the 15th amendment rights. But not a single suit has been started under that provision of the law. We specifically asked if he had started any suits and he said, "No."

Therefore, Mr. Chairman, the decision is plain. There has been voting discrimination in the areas where the triggering device does not apply. Therefore, as I see it, there is no need to change or alter the triggering device and adopt the substitute which has been offered by the gentleman from Michigan (Mr. GERALD R. FORD).

Mr. COLMER. Mr. Chairman, for nearly 5 years seven once sovereign States have been treated by the Federal Government as if they were conquered provinces.

An unprecedented and grievous invasion of the sovereignty of seven States out of the 21 States in the country at large that had some form of literacy test for voters in 1964. This deliberate discrimination was tailored, through a completely arbitrary, contrived "automatic triggering device," to fit only these seven States located in one region of our country. Although this "trigger" was based on conditions that prevailed in 1964 that no longer prevail, legislation is pending before us (H.R. 4249) that would expand and compound this inequality.

If this bill reported by the House Judiciary Committee should be adopted, a Negro in New York will continue to be subject to a literacy test while a Negro in Mississippi will not.

Its passage will mean that a Negro in one North Carolina county will continue to take a literacy test while a second Negro living a mile away in another North Carolina county will be exempt from such a test.

This is ridiculous. If the Federal Government is going to ban literacy tests, why should this not apply in all States?

The distinguished chairman of the Judiciary Committee attempts to brush this question aside by asserting that there is no discrimination in voting outside the States covered by the 1965 act. And yet on page 296 of the hearings of Subcommittee No. 5 of the House Committee on the Judiciary the following paragraph appears:

> Consider the 1968 voter turnout in the New York ghettoes. In the core ghetto of Harlem, Bedford-Stuyvesant, the South Bronx and Brownsville-Ocean Hill, six nearly all-Negro assembly districts (55th, 56th, 70th, 72nd, 77th, and 78th) cast an average of only 18,000 votes in 1968 despite 1960 Census eligible voter population of 45,000-55,000. On average, less than 25,000 voters were registered in these districts.

On the same page of the hearings Mr. CELLER acknowledged that parts of Bedford-Stuyvesant, Ocean Hill, and Brownsville were in his district.

On the other hand, in the Fifth Mississippi District of 16 counties five counties are reported to have 100-percent nonwhite registration. Only four counties are below 50 percent, ranging from 45.1 to 49.9 percent. This information comes from a U.S. Civil Rights Commission study called "Political Participation—1968."

Further, on page 278 of the hearings appears a statement that a higher percentage of Negroes voted in South Carolina and Mississippi than in Watts or Harlem—245,000 more people voted in Mississippi in 1968 than in 1964.

In the light of these recent figures how can anyone defend the Judiciary Committee's proposal to broaden and make even more harsh the patent inequality of the 1965 act?

If 1968 is substituted for 1964 in the arbitrary formula for coverage under the Voting Rights Act, several most interesting facts and possibilities arise:

First. Only Georgia and South Carolina had a vote in the 1968 election of less than 50 percent. The other five States now under the original act would no longer be covered.

Second. Several nearly all-Negro assembly districts in New York and probably in many other northern cities would fail to meet the standards set in section 4(b) of the 1965 act. It would be found that some had less than 50 percent of the persons of voting age registered on November 1, 1968, and that some voted less than 50 percent of such persons in the 1968 presidential election.

Maybe it was the possible consequences of such a speculation that prompted the following outburst of the distinguished chairman of the Judiciary during the hearings:

> Will you agree that the proposal offered in this amendment by the Administration would be replete with all manner and kind of difficulties and make it extremely hazardous as to whether it would pass the Congress?
>
> For example, powers sought by the Attorney General to go into every nook and cranny in every State to supervise—and that it is a word I use advisely—the registration and election and the procedures attendant thereupon, in every State of the Union.
>
> Do you think the Congress would stand for such an intrusion in every State of the Union?

This cry of outrage, which will be found on page 246 of the hearings, is very revealing in several respects:

First, it acknowledges, possibly unconsciously, the political nature of the whole voting rights proposal. The only conclusion I can draw from this quotation is that the distinguished chairman feels that, while Northern and Western Congressmen are perfectly willing to invade the sovereignty of Southern States, they would not stand for such an intrusion in their own States, and this would make passage of a new voting rights bill "extremely hazardous." The position of the distinguished chairman would seem to reflect upon the sense of justice of our colleagues from the North and the West.

Second, it puts into words, possibly better than I could, the resentment that those of us who represent Southern States feel toward legislation authorizing the Attorney General, whoever he may be at the moment, to "go into every nook and cranny" of our States to supervise the registration and election and the procedures attendant thereupon. The gentleman from New York has made a more persuasive argument than I could against this whole concept of treating sovereign States as if they were conquered provinces.

I cannot believe that our colleagues from regions outside the South subscribe to a policy of unequal treatment by the

Federal Government of States and citizens of these United States.

AN ALTERNATIVE

On the other hand, the administration bill, H.R. 12695, has a paramount virtue: it utilizes a nationwide approach, thereby treating every State and every citizen, wherever he may reside, equally.

In brief, this bill has the following provisions:

First. A nationwide ban on literacy tests until January 1, 1974.

Second. Nationwide restrictions on residency requirements for presidential elections.

Third. Attorney General to have nationwide authority to dispatch voting examiners and observers.

Fourth. Attorney General to have nationwide authority to start voting rights lawsuits to freeze discriminatory voting laws.

Fifth. President to appoint a national advisory commission to study voting discrimination and other corrupt practices.

Whether one subscribes in full to each and every one of these provisions, certainly one must concede that it strives for equality, a very worthy objective that does not characterize the Judiciary Committee's bill.

OUT-OF-DATE FIGURES AND HEARSAY

I want to comment very briefly on some arguments made in support of the committee's bill, H.R. 4249.

When all other arguments fail them, the proponents refer to a study of the U.S. Commission on Civil Rights called "Political Participation." They present its "findings" as gospel truth, whereas even the most cursory perusal of this publication reveals that its conclusions are based upon out of date or completely unofficial figures and hearsay "facts."

This questionable basis is made clear by the following:

The publication was issued in May 1968, before conventions were held and before congressional and presidential races.

It uses 1960 census figures and figures furnished by unofficial and biased organizations. One example of its sources is V.E.P. News, September 1967.

The footnotes show plainly the hearsay nature of various charges made.

APATHY AND PRESSURE ORGANIZATIONS

Finally, I would raise this question: How does one explain an average turnout of 18,000 voters in 1968 in nearly all-Negro assembly districts in New York City that had an eligible voter population according to the 1960 census of 45,000 to 55,000? Or a 12-percent turnout in a District of Columbia School Board election?

As indicated above, the figures of the 1960 census are not up to date. But does that explain the low turnout? Or is it apathy? Or possibly lack of organized drives by such organizations as the NAACP or the SCLC?

Is the real reason for a low turnout in New York City different from a low turnout in Mississippi in 1964?

Mr. Chairman, this action which the proponents of this bill are advocating reminds me of my knowledge of history following the unfortunate fratricidal strife between the States and the aftermath thereof. I recall that the Congress control at that time, by the so-called North which had prevailed in that strife, made fiery speeches and attempted, in some instances succeeded, in enacting legislation to punish the Southern States. As I have listened to this debate, I have been impressed by the continuous reference to the South as the aggressor in denying the right to all citizens of the United States. In fact, as the debate progressed and some of my so-called northern friends addressed the House, I was thankful that in those days of punitive legislation we had Thaddeus Stevens instead of some of these present-day legislators.

I have already attempted to show the lack of consistency in the positions taken by some of the advocates of continuing this iniquitous bill. But I was amazed when I heard my friend and colleague, a member of my committee, the very able and eloquent gentleman from Illinois (Mr. ANDERSON), raise a question of the constitutionality of making his administration's bill the law and I quote him, as follows:

> I think there is grave constitutional doubts as to whether or not you can simply ban these tests all over the country without any reference at all to whether or not they have ever been used as a matter of fact to attempt to discriminate against somebody in voting because of his race or because of his color.

Knowing him as I do, as a student of the law and the Constitution, I repeat, I am amazed that he should take such a position. Conversely, I would think that the present law, which he desires to perpetuate—namely making the provisions of the law applicable only to a few States or its citizens, would raise the question of constitutionality rather than making it applicable to all the States.

Mr. Chairman, and that brings me to another point. I asked my friend the very distinguished gentleman from New York (Mr. CELLER), when he was before my Committee on Rules requesting a rule to bring the bill to the floor, when the unfortunate War Between the States was going to end. We in the South, in spite of that strife of more than a hundred years ago, are members of the Union. Whatever might have been the merits of the position of the Southern States, we are now members of the sisterhood of the States, and desire to continue to be so. It would seem to me that, after more than a century, this division should end. This is regional legislation aimed at a particular section of the country and is certainly not in line with the desire to have a reunited country. Regional legislation is divisive. And, certainly with all the problems that confront us, both upon domestic and foreign fronts, we should be united. Therefore, Mr. Chairman, I decry the further efforts to divide this country by a continuation of this type of legislation.

Finally, Mr. Chairman, while I do not subscribe to doctrine, as set out in the administration's bill providing for repeal of literacy tests in any or all of the States, I do feel that if it is to be applicable to a portion of our States, then it should be made applicable to all.

Therefore, I support the bill advocated by President Nixon and sponsored by the able gentleman from Michigan, the minority leader, but I must confess that I do so on the basis that it is the lesser of evils.

The CHAIRMAN. The time of the gentleman from New York has expired. All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. GERALD R. FORD).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. GERALD R. FORD. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers, Mr. GERALD R. FORD and Mr. ROGERS of Colorado.

The Committee divided, and the tellers reported that there were—ayes 189, noes 165.

So the substitute amendment was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose, and the Speaker having resumed the Chair, Mr. BOLLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4249) to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices, pursuant to House Resolution 714, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

PARLIAMENTARY INQUIRY

Mr. CELLER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. CELLER. Mr. Speaker, I am sure that Members would like to know what the status of the bill will be, if the substitute bill is defeated on rollcall vote.

The SPEAKER. In response to the parliamentary inquiry, if the situation arises where the amendment is rejected, then the matter pending before the House will be the bill reported out of the Committee on the Judiciary.

The question is on the amendment.

Mr. CELLER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas, 208, nays 204, not voting 21, as follows:

[Roll No. 316]

YEAS—208

| | | |
|---|---|---|
| Abbitt | Blanton | Bush |
| Abernethy | Boggs | Byrnes, Wis. |
| Adair | Bow | Cabell |
| Alexander | Bray | Caffery |
| Anderson, Tenn. | Brinkley | Camp |
| | Brock | Carter |
| Andrews, Ala. | Broomfield | Casey |
| Arends | Brotzman | Cederberg |
| Ashbrook | Brown, Mich. | Chamberlain |
| Aspinall | Brown, Ohio | Chappell |
| Ayres | Broyhill, N.C. | Clancy |
| Baring | Broyhill, Va. | Clausen, Don H. |
| Belcher | Buchanan | |
| Berry | Burke, Fla. | Clawson, Del |
| Betts | Burleson, Tex. | Collier |
| Bevill | Burlison, Mo. | Collins |
| Blackburn | Burton, Utah | Colmer |

Corbett
Cramer
Crane
Cunningham
Daniel, Va.
Davis, Ga.
Davis, Wis.
Delaney
Denney
Dennis
Derwinski
Devine
Dickinson
Dorn
Dowdy
Downing
Duncan
Edwards, Ala.
Edwards, La.
Erlenborn
Eshleman
Evins, Tenn.
Fisher
Flowers
Flynt
Ford, Gerald R.
Foreman
Fountain
Frey
Fuqua
Galifianakis
Gettys
Goldwater
Goodling
Green, Oreg.
Griffin
Gross
Grover
Gubser
Hagan
Haley
Hall
Hammer-schmidt
Hansen, Idaho
Harsha
Hastings
Hébert
Henderson
Hogan
Hull
Hunt
Ichord
Jarman
Johnson, Pa.
Jonas
Jones, Ala.
Jones, N.C.
Kee
King
Kleppe
Kuykendall
Landgrebe
Landrum
Langen
Latta
Lennon
Lloyd
Long, La.
Lujan
Lukens
McClure
McEwen
McMillan
Mahon
Mann
Marsh
Martin
Mathias
May
Mayne
Meskill
Michel
Miller, Ohio
Mills
Minshall
Mize
Mizell
Montgomery
Morton
Myers
Natcher
Nelsen
Nichols
O'Neal, Ga.
Passman
Pettis
Pickle
Poage
Poff
Pollock
Preyer, N.C.
Price, Tex.
Pryor, Ark.
Quie
Quillen
Rarick
Reid, Ill.
Rhodes
Rivers
Roberts
Rogers, Fla.
Roudebush
Ruth
Satterfield
Saylor
Schadeberg
Scherle
Scott
Sebelius
Shriver
Sikes
Skubitz
Slack
Smith, Calif.
Snyder
Springer
Steiger, Ariz.
Steiger, Wis.
Stephens
Stubblefield
Stuckey
Talcott
Taylor
Teague, Calif.
Thompson, Ga.
Thomson, Wis.
Ullman
Waggonner
Wampler
Watkins
Watson
Watts
Weicker
Whalley
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wold
Wright
Wyatt
Wydler
Wylie
Wyman
Young
Zion
Zwach

NAYS—204

Adams
Addabbo
Albert
Anderson, Calif.
Anderson, Ill.
Annunzio
Ashley
Barrett
Beall, Md.
Bell, Calif.
Bennett
Biaggi
Biester
Bingham
Blatnik
Boland
Bolling
Brademas
Brasco
Brooks
Brown, Calif.
Burke, Mass.
Burton, Calif.
Button
Byrne, Pa.
Carey
Celler
Chisholm
Clark
Clay
Cleveland
Cohelan
Conable
Conte
Conyers
Corman
Coughlin
Cowger
Culver
Daddario
Daniels, N.J.
de la Garza
Dellenback
Dent
Diggs
Dingell
Donohue
Dulski
Dwyer
Eckhardt
Edmondson
Edwards, Calif.
Esch
Evans, Colo.
Fallon
Farbstein
Feighan
Findley
Fish
Flood
Foley
Ford, William D.
Fraser
Frelinghuysen
Friedel
Fulton, Pa.
Gallagher
Garmatz
Gaydos
Giaimo
Gibbons
Gilbert
Gonzalez
Gray
Green, Pa.
Griffiths
Gude
Halpern
Hamilton
Hanley
Hanna
Hansen, Wash.
Harrington
Harvey
Hathaway
Hawkins
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hicks
Holifield
Horton
Howard
Hungate
Hutchinson
Jacobs
Johnson, Calif.
Karth
Kastenmeier
Kazen
Keith
Kluczynski
Koch
Kyros
Leggett
Long, Md.
Lowenstein
McCarthy
McClory
McCloskey
McCulloch
McDade
McDonald, Mich.
McFall
McKneally
Macdonald, Mass.
MacGregor
Madden
Matsunaga
Meeds
Melcher
Mikva
Miller, Calif.
Minish
Mink
Mollohan
Monagan
Moorhead
Morgan
Morse
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nix
Obey
O'Hara
O'Konski
Olsen
Ottinger
O'Neill, Mass.
Patman
Patten
Pelly
Pepper
Perkins
Philbin
Pike
Pirnie
Podell
Price, Ill.
Pucinski
Railsback
Randall
Rees
Reid, N.Y.
Reuss
Riegle
Robison
Rodino
Roe
Rogers, Colo.
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roth
Roybal
Ryan
St Germain
St. Onge
Sandman
Scheuer
Schwengel
Shipley
Sisk
Smith, Iowa
Smith, N.Y.
Stafford
Staggers
Stanton
Steed
Stokes
Stratton
Sullivan
Symington
Taft
Thompson, N.J.
Tiernan
Tunney
Udall
Van Deerlin
Vanik
Vigorito
Waldie
Whalen
White
Widnall
Wilson, Charles H.
Wolff
Yates
Yatron
Zablocki

NOT VOTING—21

Andrews, N. Dak.
Cahill
Dawson
Eilberg
Fascell
Fulton, Tenn.
Hays
Hosmer
Jones, Tenn.
Kirwan
Kyl
Lipscomb
Mailliard
Powell
Purcell
Reifel
Ruppe
Schneebeli
Teague, Tex.
Utt
Vander Jagt

So the amendment was agreed to.

The Clerk announced the following pairs:

On the vote:

Mr. Purcell for, with Mr. Andrews of North Dakota against.

Mr. Lipscomb for, Mr. Fascell against.

Mr. Teague of Texas for, with Mr. Eilberg against.

Mr. Utt for, with Mr. Cahill against.

Mr. Hosmer for, with Mr. Schneebeli against.

Until further notice:

Mr. Kirwan with Mr. Reifel.

Mr. Fulton of Tennessee with Mr. Ruppe.

Mr. Hays with Mr. Mailliard.

Mr. Kyl with Mr. Vander Jagt.

Mr. Dawson with Mr. Powell.

Mr. CORBETT changed his vote from "nay" to "yea."

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken, and the Speaker announced that the ayes appeared to have it.

PARLIAMENTARY INQUIRY

Mr. EDWARDS of California. Mr. Speaker, a parliamentary inquiry: has a motion to recommit been made?

The SPEAKER. The Chair will state that a motion to recommit comes too late at this stage. The Chair has already put the question on the passage of the bill and announced that the ayes appeared to have it.

Mr. CELLER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 234, nays 179, not voting 20, as follows:

[Roll No. 317]

YEAS—234

Abernethy
Adair
Addabbo
Alexander
Anderson, Tenn.
Andrews, Ala.
Arends
Ashbrook
Aspinall
Ayres
Baring
Beall, Md.
Belcher
Bell, Calif.
Bennett
Berry
Betts
Bevill
Blackburn
Blanton
Boggs
Bow
Bray
Brinkley
Brock
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burlison, Mo.
Burton, Utah
Bush
Byrnes, Wis.
Cabell
Camp
Carter
Casey
Cederberg
Chamberlain
Chappell
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins
Colmer
Conable
Corbett
Cowger
Cramer
Crane
Cunningham
Daniel, Va.
Davis, Wis.
de la Garza
Delaney
Dellenback
Denney
Dennis
Dent
Derwinski
Devine
Dickinson
Dorn
Downing
Duncan
Dwyer
Edwards, Ala.
Edwards, La.
Erlenborn
Eshleman
Evins, Tenn.
Flowers
Flynt
Ford, Gerald R.
Foreman
Fountain
Frelinghuysen
Frey
Fulton, Pa.
Fuqua
Galifianakis
Garmatz
Gettys
Gibbons
Goldwater
Goodling
Gray
Green, Oreg.
Griffin
Gross
Grover
Gubser
Haley
Hall
Hamilton
Hammer-schmidt
Hansen, Idaho
Harsha
Hastings
Henderson
Hogan
Hull
Hunt
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Pa.
Jonas
Jones, Ala.
Jones, N.C.
Kee
Keith
King
Kleppe
Kuykendall
Landgrebe
Landrum
Langen
Latta
Lennon
Lloyd
Lujan
Lukens
McCloskey
McClure
McDade
McDonald, Mich.
McEwen
McKneally
McMillan
MacGregor
Mahon
Mann
Marsh
Martin
Mathias
May
Mayne
Meskill
Michel
Miller, Ohio
Mills
Minshall
Mize
Mizell
Mollohan
Montgomery
Morton
Myers
Natcher
Nelsen
Nichols
O'Konski
O'Neal, Ga.
Pepper
Pettis
Pickle
Pirnie
Poff
Pollock
Preyer, N.C.
Price, Tex.
Pryor, Ark.
Quie
Quillen
Railsback
Reid, Ill.
Rhodes
Rivers
Roberts
Rogers, Fla.
Roth
Roudebush
Ruth
Sandman
Satterfield
Saylor
Schadeberg
Scherle
Schwengel
Scott
Sebelius
Shipley
Shriver
Sikes
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Snyder
Springer
Stafford
Steiger, Wis.
Stephens
Stubblefield
Stuckey
Talcott
Taylor
Teague, Calif.
Thompson, Ga.
Thomson, Wis.
Ullman
Waggonner
Wampler
Watkins
Watson
Watts
Weicker
Whalley
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wold
Wright
Wyatt
Wydler
Wylie
Wyman
Young
Zion
Zwach

NAYS—179

Abbitt
Adams
Albert
Anderson, Calif.
Anderson, Ill.
Annunzio
Ashley
Barrett
Biaggi
Biester
Bingham
Blatnik
Boland
Bolling
Brademas
Brasco
Brooks
Brown, Calif.
Burke, Mass.
Burleson, Tex.
Burton, Calif.
Button
Byrne, Pa.
Caffery
Carey
Celler
Chisholm
Clay
Cohelan
Conte
Conyers
Corman
Coughlin
Culver
Daddario
Daniels, N.J.
Davis, Ga.
Diggs
Dingell
Donohue
Dowdy
Dulski
Eckhardt
Edmondson
Edwards, Calif.
Esch
Evans, Colo.
Fallon
Farbstein
Feighan
Findley
Fish
Fisher
Flood
Foley
Ford, William D.
Fraser
Friedel
Gallagher
Gaydos
Giaimo
Gilbert
Gonzalez
Green, Pa.
Griffiths
Gude
Hagan
Halpern
Hanley
Hanna
Hansen, Wash.
Harrington
Harvey
Hathaway
Hawkins
Hébert
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hicks
Holifield
Horton
Howard
Hungate
Johnson, Calif.

| | | |
|---|---|---|
| Karth | Nedzi | Roybal |
| Kastenmeier | Nix | Ryan |
| Kazen | Obey | St Germain |
| Kluczynski | O'Hara | St. Onge |
| Koch | Olsen | Scheuer |
| Kyros | O'Neill, Mass. | Sisk |
| Leggett | Ottinger | Smith, N.Y. |
| Long, La. | Passman | Staggers |
| Long, Md. | Patman | Stanton |
| Lowenstein | Patten | Steed |
| McCarthy | Pelly | Steiger, Ariz. |
| McClory | Perkins | Stokes |
| McCulloch | Philbin | Stratton |
| McFall | Pike | Sullivan |
| Macdonald, Mass. | Poage | Symington |
| Madden | Podell | Taft |
| Matsunaga | Price, Ill. | Teague, Tex. |
| Meeds | Pucinski | Thompson, N.J. |
| Melcher | Randall | Tiernan |
| Mikva | Rarick | Tunney |
| Miller, Calif. | Rees | Udall |
| Minish | Reid, N.Y. | Van Deerlin |
| Mink | Reuss | Vanik |
| Monagan | Riegle | Vigorito |
| Moorhead | Robison | Waldie |
| Morgan | Rodino | Whalen |
| Morse | Roe | Wilson, Charles H. |
| Mosher | Rogers, Colo. | Wolff |
| Moss | Rooney, N.Y. | Yates |
| Murphy, Ill. | Rooney, Pa. | Yatron |
| Murphy, N.Y. | Rostenkowski | Zablocki |

NOT VOTING—20

| | | |
|---|---|---|
| Andrews, N. Dak. | Hays | Powell |
| Cahill | Hosmer | Purcell |
| Dawson | Jones, Tenn. | Reifel |
| Eilberg | Kirwan | Ruppe |
| Fascell | Kyl | Schneebeli |
| Fulton, Tenn. | Lipscomb | Utt |
| | Mailliard | Vander Jagt |

So the bill was passed.

The clerk announced the following pairs:

On this vote:

Mr. Purcell for with Mr. Andrews of North Dakota against.
Mr. Utt for with Mr. Eilberg against.
Mr. Lipscomb for with Mr. Dawson against.
Mr. Hosmer for with Mr. Kirwan against.

Until further notice:

Mr. Kyl with Mr. Fascell.
Mr. Ruppe with Mr. Mailliard.
Mr. Hays with Mr. Schneebeli.
Mr. Reifel with Mr. Vander Jagt.

Mr. HOLIFIELD changed his vote from "yea" to "nay."

Mr. HAMILTON changed his vote from "nay" to "yea."

Mr. HECHLER of West Virginia changed his vote from "yea" to "nay."

Mr. BROYHILL of Virginia changed his vote from "nay" to "yea."

Mr. COUGHLIN changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. CELLER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to extend their remarks and include extraneous matter on the bill just passed.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 2208. An act for the relief of James Hideaki Buck;

H.R. 4560. An act for the relief of Sa Cha Bae;

H.R. 5133. An act for the relief of Pagona Anomerianaki;

H.R. 6600. An act for the relief of Panagiotis, Georgia, and Constantina Malliaras;

H.R. 10156. An act for the relief of Lidia Mendola; and

H.R. 11503. An act for the relief of Wylo Pleasant, doing business as Pleasant Western Lumber Co. (now known as Pleasant's Logging and Milling, Inc.).

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 13270. An act to reform the income tax laws.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 13270) entitled "An act to reform the income tax laws, requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LONG, Mr. ANDERSON, Mr. GORE, Mr. TALMADGE, Mr. BENNETT, Mr. CURTIS and Mr. MILLER to be the conferees on the part of the Senate.

The message also announced 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. 13763) entitled "An act making appropriations for the legislative branch for the fiscal year ending June 30, 1970, and for other purposes."

The message also announced that the Senate agrees to the House amendment to the Senate amendment numbered 37.

## SUPPLEMENTAL APPROPRIATIONS, 1970

Mr. MAHON, from the Committee on Appropriations, reported the bill (H.R. 15209) making supplemental appropriations for the fiscal year ending June 30, 1970, and for other purposes (Rept. No. 91-747), which was read a first and second time, and referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

Mr. BOW reserved all points of order on the bill.

Mr. MAHON. 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. 15209) making supplemental appropriations for the fiscal year ending June 30, 1970, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate on this measure be limited to not to exceed 30 minutes, the time to be equally divided and controlled by the gentleman from Ohio (Mr. BOW) and myself.

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

Mr. BOW. Mr. Speaker, reserving the right to object, I realize the hour is late, and that Members would like to leave, but it seems to me on a supplemental bill of this size that general debate of 30 minutes is quite short. I would ask my chairman if he would ask for an hour of debate, and if we do not take it, fine, but it seems to me some Members may want to be heard on it, and it seems to me we should have some time for Members to speak if they care to.

Mr. MAHON. Mr. Speaker, I modify my request to ask that the time for general debate be not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Ohio and myself.

Mr. BOW. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Texas.

The motion 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. 15209, with Mr. O'HARA 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 unanimous consent agreement, the gentleman from Texas (Mr. MAHON) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. BOW) will be recognized for 30 minutes.

The chair recognizes the gentleman from Texas.

Mr. MAHON. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. GUBSER).

(By unanimous consent, Mr. GUBSER was allowed to speak out of order.)

SUBCOMMITTEE INVESTIGATION OF MYLAI INCIDENT

Mr. GUBSER. Mr. Chairman, I am currently serving as a member of the Investigating Subcommittee of the Armed Services Committee, which is looking into the Army's handling and reporting of events connected with the so-called Mylai incident. In order to be impeccably responsible and completely objective, we as members of the committee have made no statements to the press because we have not heard all the evidence.

Today, on the first page of the Evening Star, I read an article by James Doyle which reads as follows in part:

A helicopter pilot has told members of the House Armed Services Committee that he trained his guns on American soldiers.

Later in the article it says:

He told the congressmen that when he landed he got in an argument with the platoon leader on the scene.

Mr. Chairman, I have been present at every single meeting of these hearings, and I say to you on my honor as a member of the U.S. House of Representatives that these statements are not true.

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

Mr. GUBSER. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, as one