Stark	Teague	Wilson, Tex.
Steiger, Ariz.	Udall	Wolff
Steiger, Wis.	Vigorito	Wydler
Stephens	Walsh	Wylie
Stratton	Waxman	Yates
Sullivan	White	Zeferetti
Taylor, Mo.	Wilson, Bob	

The SPEAKER. On this rollcall, 304 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

VOTING RIGHTS ACT EXTENSION

Mr. YOUNG of Georgia. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 469 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 469

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6219) to amend the Voting Rights Act of 1965 to extend certain provisions for an additional ten years, to make permanent the ban against certain prerequisites to voting, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

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

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

Mr. Speaker, this House Resolution 469 provides for an open rule with 3 hours of general debate on H.R. 6219, a bill to amend the Voting Rights Act of 1965 to extend certain provisions for an additional years, to make permanent the ban on literacy tests as qualifications for voting, and for other purposes.

Mr. Speaker, as I said, House Resolution 469 provides for 3 hours of general debate, to be followed by reading for amendment under the 5-minute rule. The bill is to be read by titles.

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

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

VOTING RIGHTS ACT AND CHANGE IN THE SOUTH

BLACK ELECTED OFFICIALS

In 1965, there were 72 black elected officials in the 11 Deep South States (Voter Education Project). Today, there are 1,587—including 1,114 in the seven States specially covered by the Voting Rights Act. (VEP)

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

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

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

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

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

1965	72
1966	159
1968	248
1969	388
1970	565
1971	711
1972	873
1973	1,144
1974	1,307
1975	1,587

Source: Voter Education Project.

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

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

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

There are 53 black elected school board members.

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

VOTER REGISTRATION

Since 1965, about 1.5 million blacks in the South as a whole have become registered voters—about 1.1 million in the covered States. The percentage of eligible blacks registered in the seven covered States rose from about 29 percent in 1964 to 56 percent in 1972.

However, it is estimated that as many as 2.5 million eligible blacks in the South are still not registered, and that black registration is about 15 points below the percentage of white registration. The disparity is even greater in many rural areas. (VEP and U.S. Civil Rights Commission)

VOTER TURNOUT

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

According to a U.S. Census survey of the voting age population, 47.8 percent of blacks in the South reported that they voted in the 1972 election, compared to 57 percent of whites:

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

[In percent]

	Reported registered	Reported voted
Nationwide:		
White	73.4	64.5
Black	65.5	52.1
Spanish-speaking	44.4	37.5
South:		
Urban:		
Black	65.1	49.5
White	70.7	59.5
Rural:		
Black	61.9	44.5
White	68.2	53.0
Total, South:		
Black	64.0	47.8
White	69.8	57.0

SPANISH-SPEAKING (NATIONWIDE)

	Voting age population (millions)	Reported registered (percent)	Reported voted (percent)
Mexican	3.2	46.0	37.5
Puerto Rican	.8	52.7	44.6
Other Spanish	1.6	36.8	33.5

Some barriers still exist in the South:

Barriers to registration:

Restrictions on times and places.

Long distances to travel to register.

Hostile or uncooperative officials.

Purging of rolls; reregistration.

Economic pressure.

Inadequate education or publicity about registration.

Barriers to voting:

Denial of requests for ballots.

Location of polls.

Inadequacy of polls—too crowded, not enough machines, and so forth.

Hostile or uncooperative officials.

Inadequate assistance to voters needing help.

Difficulties in absentee voting.

Economic pressure.

Barriers to candidacies:

Filing fees.

Obstacles to qualifying.

Campaign costs.

Candidate's need for poll watchers, other volunteers.

Irregular vote counting.

Obstacles to biracial campaigns.

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

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

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

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

Since 1965, specially covered jurisdictions have submitted 4,476 voting changes for preclearance; only 163 were objected to by the Attorney General.

Opponents of the Voting Rights Act—especially state and local officials who are required by the law to submit voting changes—have claimed that preclearance is burdensome, time-consuming, and expensive. They assert that most voting changes are "minor" or "technical." But the pre-clearance procedure clearly is more efficient than case-by-case lawsuits. The Attorney General is supposed to act on preclearance submissions within 60 days. Under the Civil Rights Acts of 1957, 1960, and 1964, the Justice Department filed only 71 cases, and each one required a great deal of time to research the problem, compile evidence, prepare for trial, and work on the almost inevitable appeal. "Minor" or "technical" changes in voting procedures can and do have a major impact on voting rights—for example, the location of a polling place in a private white club—see example from Jones County, Ga., below.

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

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

Jones County, Ga., 1974: Removal of a polling place from a store in the central part of the precinct to the Lions Club Fairground Building on the outer fringe. The Lions Club does not accept blacks as members, and also many blacks would have had to travel an additional 3½ miles to vote.

Grenada County, Miss., 1975: For the second time, the Attorney General refused to clear a redistricting plan for five county supervisor election districts. The plan would fragment the concentration of black voters in the city of Grenada.

Charleston, S.C., 1974: A city and county consolidation plan provided for election of the new governing body through the use of multimember districts, at-large elections, a majority vote requirement, residency requirements, and numbered posts. It would have diluted black voting strength. A fairly drawn plan of single-member districts, the Justice Department said, would allow fair opportunity for the election of blacks.

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

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

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

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

It is known that in Georgia between 1964 and 1973, four majority black counties—Calhoun, Dooly, Macon, and Peach—and in one county that is more than 40 percent black—Jenkins—made changes in the method of electing their commissioners, but did not submit the changes for preclearance. In each case, the CRC found, the new method "has features that are often discriminatory."

Eighteen other Georgia counties which are less than 40 percent black made changes between 1964 and 1973 in the method of selecting school board members, usually a change from appointment to election at-large. None have attempted to obtain section 5 preclearance.

In Bessemer and Fairfield, Ala., in recent years, black voting strength was diluted by the annexation of several white areas—without preclearance.

These and other failures to seek preclearance suggest another argument for extension of the Voting Rights Act—for it is clear that many localities continue to flaunt the law, and that more vigorous enforcement is obviously needed in the specially covered areas of the South:

Preclearance as a deterrent. It is generally agreed that the preclearance requirement has in some areas served as a deterrent to passage of discriminatory voting changes.

USE OF FEDERAL EXAMINERS

The Attorney General may send Federal examiners into the specially covered jurisdictions. Examiners prepare lists of applicants eligible to vote, and State officials are then required to register the applicants.

There are 553 southern counties—6 complete States, plus 39 counties in North Carolina—specially covered by the act. As of mid-1974, examiners had been sent to only 60 of those counties. They had listed for registration 155,148 persons. No examiners were ever sent to North Carolina or Virginia.

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

USE OF FEDERAL OBSERVERS

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

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

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

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

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

After all, Mr. Speaker, we have just completed a war which cost $150 billion, and which cost 55,000 American lives to insure the right to vote, the right to determine their own democracy for the people in South Vietnam, so it would seem to me that the dozen or more lives that were shed in 1965 that made possible this act should not be repeated by the Spanish-speaking Americans, or by the Asian Americans, or by the American Indians, but that there has been enough suffering done by Americans in general so that we should be able to appreciate the fact that all men in these United States are endowed not by their education, not by their color, not by their wealth or religion, but that they are endowed by their Creator with certain unalienable rights, and one of those rights should certainly be the right to vote.

VOTING PROBLEMS OF LANGUAGE-MINORITY GROUPS

Registration: Problems include inadequate numbers of minority registration personnel, uncooperative registrars, and purging of registration lists.

Purging can be especially burdensome to language minorities in the many areas where purging notices are mailed out in English only. In Arizona, failure to vote every 2 years in the general election results in removal from the registration rolls. After the 1972 election in that State, Coconino County purged 25 percent of the 24,358 registered voters from the rolls. Most of the more than 6,000 purged were Navajos. Few Navajos in that region can read English. (CRC)

In 1974, research in Tucson on lists of challenged and purged voters in Pima County showed that a much higher rate

of Chicanos had been purged than of other voters. A sample of canceled voters showed that many were not aware they had been purged and did not know how to be reinstated. (CRC)

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

Voting: Language minorities seldom control the election or appointment of local officials or occupy positions of influence. Problems at polling places include outright intimidation by officials, failure to locate voters' names on precinct lists, location of polls where minority voters feel unwelcome or location at inconvenient places, underrepresentation of minorities as poll workers, unavailable or inadequate assistance to illiterate voters, lack of bilingual materials, and difficulties with use of absentee ballots.

Language minorities have been victims of physical, economic and political intimidation when they attempted to vote. In House hearings, witnesses testified that Texas law-enforcement officials patrol Mexican American, but not Anglo, precincts on election days: sheriffs reportedly walk around polling places brandishing guns and billy clubs. When Anglos challenged the election of Mexican Americans, they subpenaed 200 Mexican Americans in Pearsall, Tex., and 150 in Cotulla. Witnesses said the subpenas had the effect of intimidating the Mexican Americans and convincing them to avoid politics and voting. Also in Pearsall, Tex., a witness testified that an Anglo candidate for city council who was a bank loan officer went to Mexican-Americans who had loans with the bank and told them he expected their votes.

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

Chicano elected officials. To illustrate the underrepresentation of Spanish-speaking people, in Texas, Mexican Americans comprise 16.4 percent of the population, but hold 2.5 percent of the elective positions. In New York, Spanish heritage citizens make up 7.4 percent of the population, but hold less than 0.1 percent of the elective positions.

Dilution of language-minority voting strength. This is a major problem which calls for protection under the preclearance provision of the Voting Rights Act.

In Apache County, Ariz., Navajos make up about three-fourths of the population. The three county supervisor districts are drawn so that all the Navajos are in one grossly overpopulated district.

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

Throughout Texas, many cities and school districts have at-large majority runoff systems, which effectively exclude Mexican-American and black candidates who could win with pluralities.

In 1972, San Antonio was almost evenly divided between Anglos and Mexican-Americans. The city made massive annexations including irregular or "finger" annexations of heavily Anglo territory.

Illiteracy among language minorities: Of all Spanish heritage citizens over 25 years old, more than 18 percent have not completed 5 years of education—the level generally said to be necessary to achieve literacy in English—compared to 5.5 percent for the total U.S. population. (Census) In Texas, more than 33 percent of the Mexican-American population has not completed the fifth primary grade. American Indians, Alaskan Natives and Asian Americans have similar language difficulties. The illiteracy rate among Chinese-Americans is 16.2 percent; among American Indians, 15.5 percent; among Anglos, 4.5 percent. (Census)

Other language minorities: Other language-minority groups are not covered by the proposed legislation because no evidence was received concerning voting difficulties among these groups.

U.S. Census survey of voting-age population on participation in 1972 elections, nationwide, by ethnic origin:

	Percent	
	Reported registered	Reported voted
Black	67.5	54.1
Spanish	44.4	37.5
German	79.0	70.8
Italian	77.5	71.5
Irish	76.7	66.6
French	72.7	63.2
Polish	79.8	72.0
Russian	85.7	80.5
English/Scottish/Welsh	80.1	71.3

Mr. Speaker, I urge the Members of the House to pass this resolution.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Georgia (Mr. Young) has ably described the provisions of this resolution, but I would like to say, Mr. Speaker, that the report from the Judiciary Committee, which was filed and discussed before the Committee on Rules, contained more additional, supplemental, and separate views than any which has come to my attention since being a Member of this body.

I am sure that the Voting Rights Act has done a tremendous amount of good, and should be extended, but the members of the committee have presented additional views which I think should be considered before final adoption of the act.

For instance, the trigger is still aimed at the South. The South has corrected its problems as to voting rights, and it should be on an even track in the future. The act is further extended to Spanish-speaking minorities, but why should this act, which is so greatly needed, be limited to a few States of this great United States of America? I think it should be extended to the people of all States of this great Union, to all minorities irrespective of race, creed, or color. The triggering provision should be changed.

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

Why do we not make it all-embracing to all of our 50 States and make the triggering mechanism work?

It will—if the act is continued as presented to us in the bill which will be discussed after this rule is adopted—take away local control of redistricting or even the annexation of a property in a city because of the requirements of the statute. I think when we give up States' rights and we give up the rights of cities and counties, then we are taking away the heritage which our Founding Fathers gave us in our Constitution.

Mr. Speaker, I would, therefore, ask the Members to consider this measure carefully when it is debated on the floor of the House, because, as I said in the beginning, some 15 additional and separate views have been filed in the report. It could not be a unanimous decision of the committee in reporting this bill out.

It is my understanding that the gentleman from California (Mr. Wiggins) is going to offer a substitute which will give a new triggering provision, making it applicable in all of our 50 States. What is good for the goose is good for the gander, and what is good for the people of one State likewise should be good for the people in other States.

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

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from California (Mr. Wiggins).

Mr. WIGGINS. I thank the gentleman from Tennessee for yielding to me.

It is not my purpose to take 5 minutes to discuss the merits or demerits of the proposal which I shall offer at the appropriate time. I merely seek the attention of the gentleman from Georgia and the gentleman from Tennessee to discuss what occurred before the Committee on Rules. Before the Committee on Rules I suggested that that committee make in order as a substitute the proposal sponsored by myself. By an equally divided vote, I was informed that the motion to make it in order was defeated.

However, during the debate before the Committee on Rules, there never was any doubt about the germaneness of my substitute. I seek the gentleman from Georgia's attention for the purpose of confirming that statement.

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

Mr. WIGGINS. I yield to the gentleman.

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

The gentleman is correct. There was never any question about the germane-

ness of the gentleman's substitute. It was only a question as to whether or not that should be specified under the rule, but since it is an open rule, the gentleman's substitute, it would seem to me—although I am not the Parliamentarian—would be quite in order.

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

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

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

Mr. QUILLEN. I thank the gentleman for yielding.

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

Mr. WIGGINS. I thank the gentleman for yielding.

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

Mr. QUILLEN. Mr. Speaker, I have no further requests for time.

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

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. EDWARDS of California. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6219) to amend the Voting Rights Act of 1965 to extend certain provisions for an additional 10 years, to make permanent the ban against certain prerequisites to voting, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from California.

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. 6219, with Mr. BOLLING in the chair.

The Clerk read the title of the bill.

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

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

The Chair recognizes the gentleman from California.

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

Mr. RODINO. Mr. Chairman, in 1965, I was serving in this body when President Lyndon Baines Johnson called a historic special session of Congress to express his deep concern over the tremendous difficulties which black citizens in certain areas of this country were experiencing when they attempted to register and vote. He made an urgent plea for legislation which would at long last put an end to the violence and unconstitutional barriers suffered by minorities seeking to participate in the electoral process. It was not a plea which the 89th Congress could ignore. At that time, worldwide attention had been drawn to the extreme brutality and suffering of blacks in areas such as Selma, Ala., where, in fact, marchers for the cause of equal voting rights had been killed and injured at the hands of local law enforcement officials. The day of that march is now known by many as bloody Sunday.

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

H.R. 6219, a bill which was favorably reported out of the Judiciary Committee by a vote of 27 to 7, does in fact extend the Voting Rights Act's special provisions for an additional 10 years. It was the committee's judgment that each of those provisions or remedies needs to remain operative for at least that additional period of time. For example, in reviewing the continued need for this legislation in those jurisdictions soon eligible for release, we concluded that the act's Federal preclearance requirements, mandating Federal review of all voting changes to be implemented in covered jurisdictions, were still needed because of the recent increase in the number of Justice Department objections to potentially discriminatory changes. In other words, in recent years the Justice Department, under the preclearance provision, has halted by means of objections proposed changes in Alabama, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Virginia, each of which will soon be eligible for exemption from the act unless we act and act quickly. Those objections have prohibited, in those jurisdictions, discriminatory annexations, redistrictings, polling place changes, switches to at-large elections, and other devices which would have adversely affected minority political participation. The committee found, and I personally suggest to you, that it would simply be unthinkable to now remove the preclearance protections when such changes have been prevented by the Justice Department as recently as 1974 and 1975.

Furthermore, it was especially this preclearance remedy that the committee sought to preserve for an additional 10 years. Pursuant to section 5 of the Voting Rights Act, the Federal preclearance provision, covered jurisdictions must submit all redistricting plans prior to their implementation, and in view of the fact that at least one-third of the Justice Department's objections have been directed at such plans at all levels of government, it is imperative that the preclearance requirement remain in effect during the reapportionment and redistricting which will necessarily take place in the years after the 1980 decennial census. H.R. 6219 accomplishes that end by providing for a 10-year extension, making the preclearance provision operative at least through 1985.

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

The same conclusion was reached with respect to the Federal observer remedy. The hearing record on this legislation reveals that many minority voters in the covered jurisdictions have frequently found that their names cannot be found on precinct lists and that abuses exist with respect to aid to be provided to illiterate voters. Also, polls in these areas continue to be located in all-white clubs and lodges where minority persons are otherwise not allowed to go, with such locations obviously representing extremely hostile and intimidating atmospheres for the nonwhite voter. Thus, the presence of Federal observers can

still serve to deter abuses and to prevent or diminish the intimidation frequently experienced by minority voters.

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

H.R. 6219 also proposes to make permanent the temporary nationwide ban on literacy tests which Congress enacted in 1970. That nationwide test suspension expires in August of this year and the committee concluded that it was now appropriate, as well as constitutional, for that ban to be made permanent. It is well documented that, primarily because of disparate education opportunities, minority citizens in this country suffer from much higher rates of illiteracy than do nonminority citizens. In reaching its conclusion that literacy tests ought to be permanently banned, the committee also took into account the long and tragic history of the discriminatory use of such tests to disenfranchise minority voters, as well as the extensive use of broadcast media in today's society as a source of acquiring knowledge on the political scene.

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

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

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

Thus, H.R. 6219 proposes to mandate, for a 10-year period, in newly covered jurisdictions such as Texas, Alaska, and various other counties throughout the country, the conduct of bilingual elections, Federal preclearance, and Attorney General authorization to certify the need for examiners and observers. Such remedies will clearly address many of the language minority voting problems elaborated upon in the record; a record which, incidentally, is quite extensive in that it includes 13 days of hearings. This expansion of the act's special coverage is found in title II of H.R. 6219.

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

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

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

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

Mr. Chairman, at this time I would like to compliment the chairman of the subcommittee and the ranking minority member of that subcommittee, together with the committee members who worked industriously and diligently over a period of time, and held 13 days of hearings at which were heard witnesses who presented testimony which is convincing proof of the need to expand coverage and the need to extend the Voting Rights Act to insure the rights of every individual, regardless of race, creed, color or language to be able to vote in these United States.

Mr. EDWARDS of California. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, today we take up for consideration H.R. 6219, a bill which both expands and extends the Voting Rights Act of 1965. It was over 3 months ago that we first began extensive study on this legislation in that it was at that time that the Subcommittee on Civil and Constitutional Rights first convened its hearings. Some 13 hearing sessions and 2 volumes of testimony later, I now stand before you to describe what we heard, what we found, and why we believe that it is absolutely imperative that you support H.R. 6219.

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

In passing the act, the 89th Congress proved to be a very optimistic body in that it designed the 1965 legislation to be applicable for a 5-year period. It was apparently hoped that, under the act, the tides of change would flow quickly and that the affected areas would readily open up their electoral processes to those who were formerly excluded. That their optimism was not well founded is now apparent. In 1970, just prior to the time that the act was to have expired, the Congress thoroughly assessed the progress which had been made during the previous 5 years and determined that it fell far short of bringing about the change that was yet needed. The special application of the act was therefore extended for another 5 years—until August 6, 1975. At this time, therefore, we again find ourselves in a posture of reassessment because, in 2 months, jurisdictions brought under the act in 1965 will begin to be eligible for automatic exemption.

H.R. 6219 proposes to again extend the special provisions of the Voting Rights Act—only this time, we propose that a more realistic extension of 10 years be adopted. It takes time to root out evils which have been allowed to exist in certain areas of this country for hundreds of years; and I believe that by urging a 10-year extension, H.R. 6219 is a bill which finally comes to grips with that reality.

Moreover, there can be no denying that so very many of the same voting barriers which existed in the covered jurisdictions in 1965 continue to exist in those jurisdictions in 1975. We heard witness after witness relate the continued prevalence of insidious voting dis-

crimination existing in jurisdictions which could conceivably be released from the act in less than 10 weeks. In a recently released report, "The Voting Rights Act: 10 Years After," the U.S. Commission on Civil Rights poignantly documents that in the currently covered jurisdictions barriers to voting and registration yet persist.

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

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

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

Before going any further, I should also, of course, mention that while we do find continued abuses, there has been some measure of success under the act in terms of improving black and minority political life. The gains which have been made in the currently covered jurisdictions since the passage of the act have been significant. Prior to the passage of the Voting Rights Act, it was estimated that blacks in the southern covered States lagged behind whites in registration by 44.1 percentage points. Most recent estimates show that the gap has diminished to some 11.2 percentage points. The number of black elected officials in those jurisdictions has increased from less than 100 as a pre-act figure to approximately 1,000. However, one should take care not to be misled by these early signs of success. Problems still persist. In 1972, it was estimated that there were well over 2.5 million blacks unregistered in all of the 11 Southern States. Also, the seven covered Southern States continue to have the greatest disparities between percentages of black elected officials and percentages of blacks in the voting age population. For example, Alabama, as of April 1974, had a 23-percent black voting age population, while it had only 3.7 percent black elected officials; Mississippi had a 31.4-percent black voting age population with only 4.0 percent black elected officials, et cetera. While blacks have, in fact, begun to serve in the covered areas in State legislatures, on county commissions, school boards, and city councils, no blacks in those areas hold statewide office. Therefore, in terms of statistical gains, the picture is mixed, and again I urge the need for the act continues.

Now, I would like to turn to another provision of H.R. 6219. That provision would make permanent what is now a temporary nationwide ban on the use of literacy tests and other devices. In this age when electronic media serve to inform the great bulk of the populace on issues of national and local concern, it is simply unthinkable that a State might be allowed to limit the franchise to only those who can read and write. If the purpose of the literacy test is to insure an informed electorate, then surely the Congress can now find that that purpose can be achieved without the imposition of a literacy test. Moreover, it is imperative that we disallow such tests—since they have historically been the tools of abuse in denying minorities, with poor educational backgrounds, the franchise.

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

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

What did we find that convinced us that this title II expansion was necessary? During the subcommittee's 13 hearing days, we heard of the extensive language barriers still being experienced by language minorities. We heard of the shamefully high illiteracy rate among language minorities in the areas proposed to be covered and of the small number of language minority citizens holding elective office—this, despite the fact that they comprise significant portions of the population. We heard of economic reprisals being suffered by such citizens when they seek to become active in the political process of, the intimidation and harassment resulting from inordinate law enforcement "patrolling" of language minority precincts during elections, of polling places being located only in white or Anglo areas of a community, of annexations which add only white or Anglo voters to the city rolls, of discriminatory gerrymandering, and of uncooperative and hostile local election officials.

The Civil Rights Commission's report, which is also a part of our record, further documents the greatly disproportionate effect of Arizona's purging laws on non-English-speaking Navajo citizens and Mexican-American citizens and of New York's purging laws on non-English-speaking Puerto Rican citizens. The purging notices in these areas have been provided only in the English language. Areas in the country with significant populations of Spanish-speaking and American Indians were also found to have severely overcrowded and too few polling places. Also, the Justice Department has recently taken part in litigation which was necessary in order to force certain county officials in the Southwest to seat a duly elected Navajo, as a county commissioner.

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

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

It is important to note that this legislation is both narrow and temporary in

nature. It applies in counties of high population and high illiteracy among the language minorities, and it applies for only a period of 10 years. The view and hope of the subcommittee is that by 1985 there will no longer be a need for such bilingual election procedures because the scars of unequal educational opportunities will have by then been removed. Additionally, as an incentive to jurisdictions to speed up the process of improving the educational opportunities for these language minorities, title III allows jurisdictions to "bail out" of bilingual coverage if they can come in at some later date and prove an increased or improved rate of literacy for the language minority group. This bilingual elections requirement is nothing new. Such procedures are now already taking place in many areas of the country. We should not now hesitate to mandate it on a nationwide basis where language minorities reside in large concentrations and are functionally illiterate.

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

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

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

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

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

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

In 1970, when the covered jurisdictions were soon to become exempt from the operation of the remedies, the Congress thoroughly reassessed the situation and found that severe voting problems still persisted. The Congress found that the act had, at that time, fallen short of bringing about the significant changes that were needed and that its application should continue at least until 1975. Thus, the 1970 Voting Rights Act amendments extended the life of the act for a second 5-year period. Additionally, in 1970, Congress broadened the trigger to also bring under the act's coverage, jurisdictions with low turnout and tests or devices at the time of the 1968 Presidential election. New jurisdictions added include areas in New York, Arizona, and California.

At this time, in June of 1975, we again find ourselves in a posture of reassessment, since jurisdictions brought under the act in 1965 will, in 2 months, again be eligible for automatic exemption from coverage. The Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary began deliberations on this matter some 4 months ago. We held 13 days of hearings and compiled two volumes of testimony in our efforts to determine future needs under this act. Finally, after careful study, it was concluded that a 10-year extension of the act's special provisions was needed. Thus, H.R. 6219, a bill which is the product of 3 days of subcommittee markup as well as 3 days of full committee markup, provides for such a 10-year extension.

An analysis of the progress which has been made during the 10 years of the Voting Rights Act's application presents a very mixed picture. The act has been extremely effective in terms of diminishing barriers to and improving minority voting and registration throughout the covered areas. Registration rates for blacks in the covered southern jurisdictions has continued to increase since the passage of the act. For example, while only 6.7 percent of the black voting-age population of Mississippi was registered before 1965, 63.2 percent of such persons were registered in 1971–72. Similar dramatic increases in black registration can be observed in Alabama, Georgia, Louisiana, and Virginia.

Severe gaps between black and white registration rates have also greatly diminished since the act's passage. Prior to 1965, the black registration rate in the State of Alabama lagged behind that of whites in that State by 49.9 percentage points. In 1972, that disparity had decreased to 23.6 percentage points. Likewise, in Mississippi, that disparity had decreased from 63.2 to 9.4 percentage points. These closing registration gaps have occurred throughout the covered southern jurisdictions.

Despite these impressive gains in the area of black registration, a bleaker side of the picture yet exists. Most recently available data reveal that percentage point disparities of 23.6, 16, and 17.8 can still be found in the States of Alabama, Louisiana, and North Carolina, respectively. In addition, the diminishing statewide disparities which have been pointed to cannot be allowed to obscure the tremendously low rates of registration still afflicting blacks within various counties in the covered States. In Louisiana, for example, significant disparities are much more evident in rural than in urban parishes. The disparity is greater than 20 percentage points in 8 of the 10 least populous parishes of that State. In 6 of the covered counties in North Carolina, white registration exceeds that of blacks by more than 25 percentage points. In South Carolina, as in Louisiana, whites are registered at much higher rates than blacks in many rural counties. For example, in Newberry County, S.C., the gap is 37 percentage points and in McCormick County, S.C., the gap is 28 percentage points.

In much the same manner as improved registration rates have been documented for blacks in covered southern jurisdictions so also has there been improvement in those areas in terms of an increasing number of black elected officials. One estimate suggests that only 72 blacks served as elected officials in the 11 Southern States in 1965, including those Southern States presently covered by the act. By April 1974, the total number of black elected officials in the seven Southern States covered by the act had increased to 963. After the November 1974 elections, those States

could boast of one black Member of the U.S. Congress, 68 black State legislators, 429 black county officials, and 497 black municipal officials. This rapid increase in the number of black elected officials marks the beginning of significant changes in political life in the covered southern jurisdictions.

So as not to be misled by the sheer numbers, however, other points should be noted when assessing this progress. Significant among these points is the fact that most of the offices newly held by blacks are relatively minor and located in small municipalities or counties with overwhelmingly black populations. Also, in the seven Southern States which are totally or partially covered by the Voting Rights Act, no black holds statewide office. As of November 15, 1974, the number of blacks in the State legislatures in the covered southern areas fell far short of being representative of the number of blacks residing in those jurisdictions. In Mississippi, for example, the percent of State legislative seats held by blacks is 0.6, despite the fact that 36.8 percent of Mississippi's population is black. In South Carolina, a State with a 30.7 percent black population, only 7.6 percent of the State legislative seats are occupied by blacks.

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

A 10-year extension of the Voting Rights Act was recommended by the U.S. Commission on Civil Rights in its recent report; "The Voting Rights Act: 10 Years After." In that report, the Commission noted the significant gains yet to be achieved in terms of minority registration and office-holding, as well as the clear barriers to minority political participation still existing in covered areas. It was noted that the locations and office hours of registration offices are frequently so restrictive that significant numbers of minorities are unable to register. Even when minority citizens do manage to arrive at the registration offices during the regularly scheduled hours, it is reported that the offices are closed or that the white registrars treat them with extreme discourtesy or, at a minimum, in an uncooperative manner. Problems are cited of polling places being located in all-white clubs or lodges where minority citizens would otherwise not be allowed to go. Other problems relating to the discriminatory impact of purgings and reregistrations are also documented. Thus, it was concluded that, in view of these continuing voting barriers, a 10-year extension was required for each of the Voting Rights Act's special remedies.

Section 5 of the act requires review of all voting changes prior to implementation by the covered jurisdictions. The review may be conducted by either the U.S. District Court for the District of Columbia or by the Attorney General of the United States. In recent years the importance of this provision has become widely recognized as means of promoting and preserving minority political gains in covered jurisdictions. Section 5 attests to the foresight and wisdom of the 89th Congress, in anticipating the need for future Federal review of voting changes in covered jurisdictions. At the time of the 1965 enactment, this committee had evidence of the great lengths to which certain jurisdictions would go in order to circumvent the guarantees of the 15th amendment (H.R. Rept. No. 439, 89th Cong., 1st sess., 10–11). In order to insure that any future practices of these jurisdictions be free of both discriminatory purpose and effect, the section 5 preclearance requirements were adopted. The Supreme Court in upholding the constitutionality of section 5, noted:

> Congress knew that some of the States covered by Section 4(b) of the Act had resorted to the extraordinary stratagem of contriving, new rules of various kinds for the sole purpose of perpetuating voting discrimination in the face of adverse federal court decrees. Congress had reason to suppose that these States might try similar maneuvers in the future in order to evade the remedies for discrimination contained in, the Act itself. *South Carolina* v. *Katzenbach*, 383 U.S. 301, 335 (1966).

Under section 5 the jurisdiction submitting the proposed change bears the burden of proving nondiscriminatory purpose and effect and the change cannot be implemented until the section 5 review requirements have been met.

It was not until after the 1970 amendments that section 5 actually came into extensive use. At the time of the adoption of those amendments, Congress resisted attempts to repeal the preclearance provisions, and in so doing gave a clear mandate to the Department of Justice that it improve enforcement of section 5. In addition, near that same time, the Supreme Court acted in two decisions (*Allen* v. *State Board of Elections*, 393 U.S. 544 (1969) and *Perkins* v. *Matthews*, 400 U.S. 379 (1971)) which gave broad interpretations to the scope of section 5. On September 10, 1971, the Department of Justice for the first time adopted regulations for implementing section 5's preclearance provisions. Today, enforcement of section 5 is the highest priority of the Voting Section of the Department of Justice's Civil Rights Division.

Many and varied changes have been submitted from most of the covered jurisdictions for the Attorney General's review. The number of submissions increased from 1 in 1965 to 1,118 in 1971. In 1974, the number of submissions was 988. The Justice Department has entered objections to changes submitted from a number of jurisdictions, including Arizona, Georgia, Louisiana, Alabama, Virginia, North Carolina, and New York.

The recent objections entered by the Attorney General of the United States to section 5 submissions clearly bespeak the continuing need for this preclearance mechanism. As registration and voting of minority citizens increases, other measures may be resorted to which would dilute increasing minority voting strength. Such other measures may include switching to at-large elections, annexations of predominantly white areas, or the adoption of discriminatory redistricting plans. In fact, the Justice Department has recently entered objections, at the State and local levels, to at-large requirements, polling place changes, majority vote requirements, staggered terms, increased candidate filing fees, redistrictings, switches from elective to appointive offices, multi-member districts, and annexations. In each of these objection situations the submitting jurisdiction failed to meet its burden of satifying the Attorney General of the nondiscriminatory purpose or effect of the proposed change.

The provisions of H.R. 6219 propose to amend the Act so that the special remedies, including section 5 preclearance, will be operative for an additional ten years. Although the 1965 legislation and the 1970 amendments did, in large part, provide for only 5-year coverage periods at a time, the committee concludes that it is imperative that a 10-year extension now be adopted in order to especially insure the applicability of section 5 protections during the reapportionment and redistricting which will take place subsequent to the 1980 decennial census.

Approximately one-third of the Justice Department's objections have been to redistrictings at the State, county, and city levels. This past experience ought not be ignored in terms of assessing the future need for the act. While it is something of an irony, the Supreme Court's "one man-one vote" ruling in *Reynolds* v. *Simms*, 377 U.S. 533 (1964) has created opportunities to disfranchise minority voters. Having to redraft district lines in compliance with that ruling, jurisdictions have not always taken care to avoid discriminating against minority voters in that process. By providing that section 5 protections not be removed before 1985, H.R. 6219 would guarantee Federal protection of minority voting rights during the years that the post-census redistrictings will take place.

The Judiciary Committee stated in its report that it "is convinced that it is largely section 5 which has contributed to the gains thus far achieved in minority political participation, and it is likewise section 5 which serves to insure that that progress not be destroyed through new procedures and techniques."

A continued need was also found for the Federal examiners remedy. Under the Voting Rights Act, jurisdictions which are covered by the statutory formula are subject to the appointment of Federal examiners. These examiners prepare lists of applicants eligible to vote and state officials are then required to register those "listed" persons.

Federal examiners have served in a Mississippi county as recently as 1974. Since the passage of the act, approximately 317 examiners have been sent to 73 designated jurisdictions. In the period

from 1970–74, Federal examiners listed 1,974 black voters. Estimates provided by the Voter Education Project in Atlanta, Ga., indicate that the registration of blacks by Federal examiners accounted for 34.2 percent of the black registration increase in Georgia, 13.2 percent in Louisiana, 27.5 percent in Mississippi, and 7.4 percent in South Carolina. In general, it is estimated that 18.9 percent of black registration has been accomplished through Federal examiners.

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

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

[b]lacks find the registration process under these circumstances at best embarrassing and humiliating.

Discriminatory purgings have also been experienced by minority voters in certain covered areas. Thus, the job which can yet be performed by Federal examiners in these covered jurisdictions is significant and the availability of this important remedy must be continued.

The remedy of Federal observers must also be extended in covered jurisdictions. Under section 8 of the Voting Rights Act, whenever Federal examiners are serving in a particular area, the Attorney General may request that the Civil Service Commission assign one or more persons to observe the conduct of an election. These Federal observers monitor the casting and counting of ballots.

In 1975, a total of 464 observers served in Alabama, Georgia, Louisiana, and Mississippi. A total of 568 observers served in 1970, 1,014 served in 1971 and 495 served in 1972. It has been found that the presence of observers tends to diminish the intimidation of minority voters, especially when they must vote in polling places located in traditionally hostile areas of a community. Also, observer reports have served as important records relating to the conduct of particular elections in subsequent voting rights litigation.

Despite the fact that the number of observers recently assigned has decreased from the large numbers which were consistently assigned during the earlier years of the act's coverage, their use has nevertheless been significant since the time of the passage of the 1970 amendments. Furthermore, the record reveals that the need for such Federal election observers continues. Many minority voters in the covered jurisdictions have frequently found that their names have been left off precinct lists and that other problems and abuses exist with respect to aid to be provided to illiterate voters. Also, polls in these areas continue to be located in all-white clubs and lodges where minority persons are otherwise not allowed to go, with such locations representing an extremely hostile atmosphere for the nonwhite voter. Under such circumstances, the role of Federal observers can be critical in that they provide a calming and objective presence which can serve to deter any abuse which might occur. Federal observers can also still serve to prevent or diminish the intimidation frequently experienced by minority voters at the polls.

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

Tests or devices, as defined in the act, remain on the books in some 14 States. Those States are Alabama, Connecticut, Delaware, Georgia, Idaho, Louisiana, Maine, Washington, New Hampshire, New York, North Carolina, South Carolina, Washington, and Wyoming. If the nationwide test suspension is not extended or made permanent, these States will be able to enforce their literacy or other similar requirements as prerequisites to voting or registration. In addition, some other States will be able to enact and enforce such provisions.

In 1970, when the Congress enacted the temporary nationwide test suspension, it adopted a proposal which had been advanced strongly in the administration's proposed legislation. In testimony presented by the Department of Justice before a Judiciary subcommittee, the Attorney General testified that, under the Supreme Court's decision in *Gaston County* v. *United States,* 395 U.S. 285 (1969), any literacy test has a discriminatory effect if the State or county has offered its minority citizens inferior educational opportunities. It may be assumed that many minority citizens who have received inferior education in certain areas of the country migrate to Northern and Western States where literacy tests might be imposed. For this reason, Congress felt that a nationwide test suspension would be appropriate to protect throughout the country the voting rights of minorities who had been unconstitutionally subjected to educational disparities.

According to 1970 census statistics, only 5.5 percent of the total population 25 years old or older had less than 5 years of school. In contrast, the 1970 data indicate that 14.6 percent of the blacks and 18.9 percent of persons of Spanish heritage had less than 5 years of school. Clearly, the imposition of any literacy test by any State or county where such minority citizens reside would have a disproportionate and discriminatory impact upon these citizens. In reaching the conclusion that such tests ought to be permanently banned throughout the country, not only was unequal educational opportunities which minority citizens have experienced taken into account, but also the long and tragic history of the discriminatory use of such tests was considered as well.

There is no legitimate reason for any jurisdiction to retain such literary requirements as a prerequisite to voting. The proliferation of broadcast media, programing in many languages and serving many different communities, clearly evinces the inappropriateness of requiring a reading and writing ability on the part of voters. The expressed justification for such requirements is that they serve to weed out the informed from the uninformed voter. In view of the availability of numerous sources of data on candidates and political issues, other than in printed form, it is obvious that many well-informed voters can be excluded by this process. Furthermore, there is no guarantee that the literate citizen, who is allowed to vote, has used his skills to become informed about election issues and candidates.

Essentially, in recommending a permanent ban on literacy tests, we rely on facts to which Mr. Justice Douglas referred in *Oregon* v. *Mitchell,* 400 U.S. 112 (1970), the Supreme Court's decision upholding the constitutionality of the temporary nationwide test suspension. In that regard, Mr. Justice Douglas noted:

[The Congress] can rely on the fact that most States do not have literary tests, that the tests have been used at times as a discriminatory weapon against some minorities, not only Negroes but Americans of Mexican ancestry, and American Indians; that radio and television have made it possible for a person to be well informed even though he may not be able to read and write.

Thus, it would truly be a step backward for this Congress to fail, at this time, to permanently ban these archaic devices which have so often served as the tools of abuse.

The provisions of H.R. 6219 which extend the act for 10 years and permanently ban literacy tests and devices are found in title I of the bill. A title II also exists in H.R. 6219 and that title serves to expand the special coverage of the Voting Rights Act to new geographic areas in order to insure the protection of the voting rights of language minority citizens.

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

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

Because of the reliance, under the title II trigger, upon census determinations for coverage purposes, it is intended that the census definitions or usages of these terms are to apply. Based upon census usage, the category of Asian American includes persons who indicate their race to be Japanese, Chinese, Filipino, or Korean. It is therefore these Asian groups which are to be used for purposes of triggering the act's special remedies. Although Census usage also includes in the Asian American category persons who indicate their race as Hawaiian, it is not intended that this group be included by census when making its Asian American coverage determinations. We are advised that unlike the languages of the other delineated Asian groups, the Hawaiian language is seldom, if ever, used; and since—as will be discussed later—one of the primary remedies accompanying title II coverage is a mandate for bilingual election procedures, it was determined that the inclusion of Hawaiian for purposes of triggering that remedy was inappropriate.

The category of American Indian includes persons who indicated their race as Indian-American—or who did not indicate a specific race category but reported the name of an Indian tribe. The population designated as Alaskan Native includes persons residing in Alaska who identified themselves as Aleut, Eskimo, or American Indian. Persons of Spanish heritage are identified as: "persons of Spanish language" in 42 States and the District of Columbia; "persons of Spanish language" as well as "persons of Spanish surname" in Arizona, California, Colorado, New Mexico, and Texas; and "persons of Puerto Rican birth or parentage" in New Jersey, New York, and Pennsylvania.

Why are these four language minority groups chosen for protection? It was found, during the subcommittee's deliberations on this matter that members of these groups continue to suffer severe language barriers. It was further found that in most cases, these language barriers were the result of unequal educational opportunities having been afforded these citizens. Illiteracy in the English language effectively excludes members of these four groups from any meaningful participation in the electoral process. Therefore, as a trigger, title II of H.R. 6219 brings under special coverage jurisdictions where English-only elections were conducted in the 1972 Presidential election if those jurisdictions had over 5 percent of a single language minority group and if the jurisdiction's overall turnout or registration rate at the time of the 1972 Presidential election was less than 50 percent. Essentially, in title II, the definition of "test or device" is expanded to also mean the use of English-only election materials in jurisdictions where more than 5 percent of the voting age citizen population is comprised of members of any single language minority group. The trigger of title II is virtually identical to the traditional trigger, now found in section 4(b) of the act; that is, the existence of a "test or device," as newly defined, and less than 50 percent turnout or registration at the most recent Presidential election.

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

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

As I noted above, the language groups covered generally suffer from severe language barriers in that they experience a high rate of illiteracy in the English language. For example, it has been estimated that 80 to 90 percent of the Spanish heritage citizens in the counties which proximate the Rio Grande speak and write only in Spanish. It has also been found that in Dallas, Fort Worth, and Houston, 50 percent of the Spanish heritage citizens speak and write only Spanish. This information has been provided by Dr. Ricardo Cornejo, an expert on bilingual education in Texas. More general statewide Texas figures found in the record indicate that 90 percent of the Mexican American population of Texas use Spanish as the language spoken at home. Throughout the United States, it has been estimated that almost 50 percent of all persons of Spanish heritage speak only Spanish and have only a limited comprehension of oral and written English. It has also been found that among the various Alaskan Native language groups, a large number of persons still speak their native language or dialect. In the Central Yupik Eskimo language family, for example, 15,000 out of a total population of 17,000 speak the language; 6,000 of the 11,000 in the language group Eskimo Inupiaq speak the language. Similar significant native language usage is found among the other Alaskan Native groups. Also native language usage is known to be still prevalent among the Navajo and various groups within the Asian community.

It has been found that these groups frequently suffer English-language disabilities and high rates of illiteracy not as the result of choice or mere happenstance. They are the product of the failure of State and local officials to afford equal educational opportunities to members of language minority groups. In *Lau* v. *Nichols*, 414 U.S. 563 (1974), the Supreme Court held that the failure of the San Francisco Board of Education to provide language instruction to Chinese students who do not speak English denied them a fruitful opportunity to participate in the public school program. The Court observed:

> We know that those who do not understand English are certain to find their classroom experiences wholly incomprehensible and in no way meaningful. *Id.* at 466.

If the word "voting is substituted for the word "classroom" in the Court's opinion, we can appreciate the difficulties which Asian Americans face when they seek to engage in the political process.

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

> The basic finding of this report is that minority students in the Southwest—Mexican Americans, blacks, American Indians—do not obtain the benefits of public education at a rate equal to that of their Anglo classmates.

In *Natonabah* v. *Board of Education*, 355 F. Supp. 716 (D.N. Mex. 1973), a Federal district court has found that Navajo pupils in the Gallup-McKinley School District have been denied equal educational opportunities. Similar findings have been made by the Supreme Court and lower Federal courts regarding students of Spanish origin. Finally, In *Hootch* v. *State Operated School System*, Civil No. 72-2450 (Super. Ct. Alaska 1973) (plaintiffs motion for summary judgment denied) (appeal pending before Supreme Court of Alaska), the plaintiffs have challenged the practice of the State of Alaska to provide public secondary schools for Alaskan Native children only in urban areas distant from their communities. Most non-Native children, on the other hand, are offered public secondary schools in their own communities.

Thus, it is apparent that the providing of bilingual ballots for the affected groups is a much-needed remedy.

I should also note that the providing of bilingual election processes is certainly not a radical step. Bilingual election procedures have been ordered by courts in numerous jurisdictions with Spanish-speaking populations. Such procedures have been ordered in both New York State and New York City, in Chicago, in Philadelphia, and in certain counties in New Jersey. Some non-court-ordered bilingual election procedures can now be found in Dade County, Fla., New Jersey, California, Massachusetts, Connecticut, and Pennsylvania. Among these areas, the range is from total bilingual procedures to more limited bilingual procedures. In certain instances, these methods have been implemented at the direction of the Secretary of State and in others, some bilingual procedures are required by State statute. In *Torres* v. *Sachs*, 381 F. Supp. 309 (S.D. N.Y. 1974), one of the court decisions requiring such procedures, the court found that—

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

That court ordered complete bilingual election materials and assistance, from dissemination of registration information through bilingual media and the use of bilingual election inspectors.

Some may, of course, wonder why the term "language minorities" has been limited to include only the four designated groups; and why other ethnic groups with native languages other than English were not included. No evidence was received concerning the voting difficulties of other language groups. Indeed, the voter registration statistics for the 1972 Presidential election showed a high degree of participation by other language groups: German, 79 percent; Italian, 77.5 percent; French, 72.7 percent; Polish, 79.8 percent; and Russian, 85.7 percent. These figures are significantly high when compared to the comparable Spanish figure of 44.4 percent.

In addition to language barriers, the subcommittee found instance after instance of clear voting discrimination being practiced against language minorities. We heard of acts of physical, economic, and political intimidation when these citizens attempt to exercise the franchise. Witnesses testified that local law enforcement officials in areas of Texas patrol only Mexican American voting precincts, and harass and intimidate Mexican American voters.

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

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

The subcommittee also heard extensive testimony on the question of representation of language minority citizens, that is, the rules and procedures by which voting strength is translated into political strength. The central problem documented is that of dilution of the vote—arrangements by which the votes of minority electors are made to count less than the votes of the majority. Testimony indicated that racial discrimination against language minority citizens seems to follow density of minority population. As one witness noted, "As the Mexican American or black voter appears to threaten potentially local power structures, a wide variety of legal devices are employed to intimidate, exclude and otherwise deny voting rights to minority citizens."

The way lines are drawn for election districts has a significant effect on the ability of voters to elect the candidate of their choice. Often lines are drawn in order to dilute or negate minority voting strength. For example, although Navajos residing on the reservation constitute about three-quarters of the Apache County, Ariz., population, the three supervisors' districts are drawn in such a way that all the Navajos are placed in one grossly overpopulated district. The Navajos and the Department of Justice have filed suit against the districting plan. Moreover, the one Navajo candidate who was eletced to the three-member Apache County Board of Supervisors by a 3 to 1 margin, was refused his office until the Arizona Supreme Court ordered him seated.

In Nacogdoches, Tex., the city charter provided for at-large elections with electoral victory for a plurality of the votes. In spring 1972, a black candidate almost won a plurality of votes in the election. In June 1972, the all-white city commission amended the city charter for the first time in 43 years to adopt a majority runoff, numbered place system for city elections. In the April 1973 election another black candidate ran for city commissioner only to win a plurality of the votes but to lose in a majority runoff election. In 1975, a Federal district court ordered single-member districts for the city of Nacogdoches on grounds that the at-large majority runoff, numbered place system abridged the voting rights of black citizens. *Weaver* v. *McUlroy*, Civil No. 5524 (E. D. Tex. 1975). Thus, it is apparent that in certain of the jurisdictions newly covered under title II, other minorities, in addition to language minorities, also need protection.

Election law changes which dilute minority political power in Texas are widespread in the wake of the recent emergence of minority attempts to exercise the right to vote. The following communities have adopted such changes in the face of growing minority voting strength: Corpus Christi, Lufkin, and Waco, in addition to a number of local school districts throughout the State. In January 1972, a three-judge Federal court ruled that the use of multimember districts for the election of State legislators in Bexar and Dallas Counties, Tex., unconstitutionally diluted and otherwise cancelled the voting strength of Mexican-Americans and blacks in those counties. This decision was affirmed by the U.S. Supreme Court in *White* v. *Regester*, 412 U.S. 755 (1973).

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

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

Coverage under title II is based on a rational trigger which describes those area for which we had reliable evidence

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

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

The question then naturally arises as to just what the bilingual mandate means when you have coverage triggered in areas where several subgroups of a single language minority reside and where each of those subgroups speaks a different language. Is the bilingual mandate to apply with respect to the language of each subgroup? The answer is yes. However, as a practical matter, the mandate under these circumstances will usually be fulfilled primarily by the providing of bilingual oral assistance at each stage of the election process. This is so because for two language minority groups; namely, American Indians and Alaskan Natives, while there are different languages spoken by their subgroups, those languages are generally oral only and, therefore, the bilingual election procedures are to be fulfilled only through bilingual oral assistance. Therefore, in many multiple language situations, there will be no printing of multiple language ballots and materials required. Instead, what is required is that persons be available to orally assist the persons speaking the different languages in registration and voting.

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

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

One general and final point to note with respect to title II is that it will essentially provide for 10 years of coverage for the affected areas. It is assumed that each of the act's special remedies will be applicable for 10 years of coverage for the affected areas. It is assumed that each of the act's special remedies will be applicable for 10 years because if the jurisdiction uses no tests or devices and conducts bilingual elections from the effective date of this law, then 10 years hence it can automatically prove that it has not, for the preceding 10 years, used in a discriminatory fashion a test or device, including English-only elections—because it will not have used such devices or election procedures at all during that period.

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

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

The evidence before the committee indicated a close and direct correlation between high illiteracy among these groups and low voter participation. For example, the illiteracy rate among persons of Spanish heritage is 18.9 percent, among Chinese is 16.2 percent and among American Indians is 15.5 percent, compared to a nationwide illiteracy rate of only 4.5 percent for Anglos. In the 1972 Presidential election 73.4 percent of Anglos were registered to vote compared to 44.4 percent of persons of Spanish origin.

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

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

Title III covers the same language minorities as title II: citizens of Spanish heritage, Asian Americans, American Indians, and Alaskan Natives. As I noted earlier, the hearing record did not disclose any evidence of voting discrimination against other language minority groups. Again, since it will be census making the coverage determinations un-

der title III as well, the four designated language groups are to bear their census meaning and usage. It is intended that my earlier, more detailed discussion of this matter, as it relates to title II, be operative here as well. The meanings and definitions of these groups, as earlier discussed, are to also apply to title III.

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

Also, with regard to title III's coverage trigger, I believe that some clarification is needed with respect to the precise manner in which the census determinations are to be made. For coverage purpose under title III, where there are distinct racial subgroups within a single language minority group, for which illiteracy data is available, census is to make coverage determinations for illiteracy on a subgroup-by-subgroup basis rather than aggregate one illiteracy figure for the overall language minority group. Thus, it would work in this manner: A jurisdiction would meet the title III population criteria if it had, for example, more than 5 percent Asian Americans but would only meet the illiteracy criteria if it had higher than the national average illiteracy rate among either Japanese, Chinese, Korean, or Filipino. And the language, in addition to English, to be required would be any language or languages of the subgroups triggering coverage under the illiteracy factor. If, in my hypothetical, none of the Asian subgroups had a high illiteracy rate, coverage would not be triggered at all.

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

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

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

It should be recalled that the line between title II and title III is based on severity of voting discrimination. Generally those jurisdictions in which the evidence shows extensive discrimination against language minorities will be covered by title II. On the other hand, title III is designed to be both broader and narrower. It covers more areas but imposes less stringent remedies. As a consequence, most of the jurisdictions covered under title II are also covered under title III. However, such double coverage will not impose any additional obligations upon the covered area. A State or political subdivision which complies with title II will invariably comply with title III.

Title III requires that its covered jurisdictions provide, for 10 years, bilingual election materials and information in the language of the applicable minority group or groups. If a State, for example, has two or more language minorities comprising more than 5 percent of the population and whose illiteracy rate is above the national average, then it would have to provide such materials for each group which triggered coverage. On the other hand, the State would not be required to provide bilingual materials for groups which did not exceed 5 percent of the total population and whose illiteracy rate is not greater than the national average. In other words, a political subdivision which is required to provide bilingual materials in Spanish would not have to provide bilingual materials for its American Indian residents if they comprised less than 5 percent of the population. Also, it should be pointed out that, as is the case in title II, when the language of the minority group triggering coverage is oral only, the bilingual elections mandate of title III is compiled with by providing bilingual oral assistance at all stages of the electoral process.

Because of the limited nature of title III, its bailout procedure is different from the one which is in the present act and in title II. Under title III, a jurisdiction, which seeks to use English-only procedures before 1985, may bailout if it shows that the illiteracy rate of the language minority which triggered coverage has dropped to, or below, the national average. If it bails out, it may then conduct English-only elections without violating title III of H.R. 6219.

H.R. 6219 provides a title III bailout procedure which rewards those jurisdictions where literacy rates among language minority residents improve to at least the national measure. Having found that the voting barriers experienced by these citizens is in large part due to disparate and inadequate educational opportunities, the committee believed it appropriate to provide, through the bailout mechanism, this incentive to educate and make more literate language minority citizens. By so doing, jurisdictions could be released from the title III requirements prior to their expiration in 1985.

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

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

In seeking to bail out, a State or political subdivision may rely on data not gathered by the Census Bureau. Any survey which meets accepted scientific standards of realiability and validity may provide a basis for reviewing continued inclusion of a jurisdiction under title III. The survey results will, of course, be subject to challenge in the judicial proceeding instituted by the State or political subdivision against the United States to remove itself from title III. In such litigation, members of the language minority which triggered coverage, or their organizational representative, or any other aggrieved person, may intervene in the lawsuit in appropriate circumstances. As noted earlier, some juris-

dictions will be covered by both titles II and III. If such a State or political subdivision "bails out" from either title, it does not relieve itself of the obligations of the other title. A jurisdiction covered by both titles must satisfy the requirements of each, including the differing provisions for bailing out. It must be remembered that the "trigger" mechanisms of title II and III are quite different, and the determinations under each are made separately and independently. It should also be recalled that the remedial devices in those titles are different. It is not the intention of Congress to merge them for bailout or any other purpose.

Since, with respect to certain of the language minority groups, subgroup illiteracy determinations will have triggered coverage, bailout is available on such a subgroup-by-subgroup basis. So, if coverage of a jurisdiction is triggered for both Chinese and Filipino, when its Chinese illiteracy rate has dropped to equal to or below the national illiteracy rate, it can seek bailout from its Chinese bilingual procedures. It need not wait until the literacy rate of all of its triggering groups has improved before it can attempt to bailout.

The provisions found in title IV of H.R. 6219 are actually a number of miscellaneous sections, some intended to beef up enforcement and others intended to clarify or update the act. Section 401 of H.R. 6219 amends section 3 of the Voting Rights Act to afford to private parties the same remedies which section 3 now affords only to the Attorney General. Under the current provisions of section 3, whenever the Attorney General has instituted a proceeding to enforce the guarantees of the 15th amendment, the court may authorize the appointment of Federal examiners, may suspend the use of literacy tests and other similar devices, and may impose preclearance restrictions on all changes relating to voting or election processes. The amendment proposed by H.R. 6219 would authorize courts to grant similar relief to private parties in suits brought to protect voting rights in covered and uncovered jurisdictions. The term which is used, "aggrieved person," is a commonly used phrase which appears throughout the United States Code. The words are used in the Civil Rights Acts of 1964 and 1968, and a similar expression is employed in the Administrative Procedure Act. An "aggrieved person" is any person injured by an act of discrimination. It may be an individual or an organization representing the interests of injured persons. In this regard, I would suggest that the following decisions be referred to: *Trafficante* v. *Metropolitan Life Insurance Co.*, 409 U.S. 205 (1972); and *NAACP* v. *Button*, 371 U.S. 415 (1963).

In enacting remedial legislation, Congress has regularly established a dual enforcement mechanism. It has, on the one hand, given enforcement responsibility to a governmental agency, and on the other, has also provided remedies to private persons acting as a class or on their own behalf. It is sound policy to authorize private remedies to assist the process of enforcing voting rights.

The provisions of H.R. 6219 also amend the act by adding section 402, which would allow a court, in its discretion, to award attorney's fees to prevailing parties in suits brought to enforce the voting guarantees of the 14th or 15th amendments. That section would, of course, also authorize attorney's fees in cases brought under statutes designed to enforce or enacted under either or both of those amendments. The awarding of such fees is important in the area of voting rights because of the significant role which private citizens must play in their enforcement. Similar attorney's fees provisions can be found in title II of the Civil Rights Act of 1964 [42 U.S.C. § 200a–3(b)] and in title VII of the same act [42 U.S.C. § 2000e–5(k)], which are designed to prohibit discrimination in public accommodations and employment, respectively. Also, attorney's fees are authorized by the Fair Housing Act of 1968 [42 U.S.C. § 3612 (c)] and by the Emergency School Aid Act of 1972 (20 U.S.C. § 1617).

In its report on this legislation, the committee noted its approval of the prevailing case law which holds that where a statute authorizes it, a successful plaintiff "should ordinarily recover an attorney's fee unless special circumstances would render such an award unjust." *Newman* v. *Piggie Park Enterprises, Inc.*, 390 U.S 400, 402 (1968) (per curiam). "Plaintiff" in this sense is used to mean the parties seeking to enforce the voting rights involved and can include an intervenor.

The use of the term "prevailing parties" entitles successful defendants to fee awards where they can show that the lawsuit was frivolous and brought for harassment purposes. In fact, in *U.S. Steel Corp.* v. *United States*, 385 F. Supp. 346, 348 (W.D. Pa. 1974), the court, in interpreting the identical term, as it appears in section 706(k) of title VII of the Civil Rights Act of 1964, indicated that the award of attorney fees is in order "to those parties who must defend against unreasonable, frivolous, meritless or vexatious actions brought by either private parties or the Government." The court in the U.S. Steel case, supra, went further to cite with approval *Richardson* v. *Hotel Corporation of America*, 332 F. Supp. 519 (E.D. La. 1971), aff'd 468 F. 2d 951 (5th Cir. 1972), a case where attorney's fees were denied to a prevailing defendant because the plaintiff's proceeding had been brought in good faith on the advice of competent counsel. These cases establish the proper standard to be applied to prevailing defendant awards under section 402 of H.R. 6219.

In appropriate circumstances, counsel fees may be awarded pendente lite. See *Bradley* v. *School Board of City of Richmond*, 416 U.S. 696 (1974). Such awards are especially appropriate where a party has prevailed on an important matter in the course of the litigation even when he ultimately does not prevail on all issues. See *Bradley, supra,* and *Mills* v. *Electric Auto-Lite Co.*, 396 U.S. 375 (1970). Moreover, for purposes of the award of counsel fees, parties may be considered to have prevailed when they vindicate rights through a consent judgment or without formally obtaining relief. *Parham* v. *Southwestern Bell Telephone Co.*, 433 F. 2d 421 (8th Cir. 1970); *Richards* v. *Griffith Rubber Mills*, 300 F. Supp. 338 (D. Ore. 1969); *Thomas* v. Honeybrook Mines, Inc., 428 F. 2d 981 (3d Cir. 1970).

As with cases brought under 20 U.S.C. 1617, the Emergency School Aid Act of 1972, defendants in cases brought to enforce voting guarantees are ordinarily State or local bodies or officials. It is intended that under section 402 of H.R. 6219, as is the case with section 1617, attorney fees, like other items of cost, can be assessed from the funds under the official's control, or directly from State or local government or agency funds or treasuries, or directly from the official.

During its deliberations on extending the act, the subcommittee became very much aware of the paucity of data by race, color, and national origin on voter registration and turnout. Although Congress passed legislation in 1964 to help remedy this problem, the surveys called for by title VIII of the Civil Rights Act of 1964 [42 U.S. § 2000(f)] have never been undertaken. In H.R. 6219, we would again be requiring the collection of such data. Section 403 of H.R. 6219 requires the Director of the Census to collect data on registration and voting by race or color, and national origin. Such data is to be collected for each national election in the covered jurisdictions and for such other elections in any areas, as designated by the U.S. Commission on Civil Rights. Reports of such surveys are to be transmitted to the Congress. The confidentiality and criminal penalties provisions which are normally applicable to census data collection processes are also applicable to the surveys mandated by H.R. 6219, except that no one is to be compelled to disclose his race, color, national origin, political party affiliation, or how he voted—or the reasons therefor—and no penalty shall be imposed for the failure or refusal to make such disclosures.

H.R. 6219 amends section 5 of the act to make clear in the statute the Attorney General's authority, upon good cause shown, to provide expedited consideration of section 5 submissions during the 60-day period following their receipt. In a situation where such expedited consideration is being accorded, the statute is amended to allow the Attorney General to indicate affirmatively, before the running of the full 60-day period, that no objection will be made. However, the statute would further provide that the Attorney General may reserve the right to reexamine the submission if additional information comes to his attention during the remainder of the 60-day period. These amendments to Section 5 serve to codify the already existing expedited consideration procedures which the De-

partment of Justice has established in its section 5 regulations (28 C.F.R. § 51.22). It is noted that, in codifying these procedures, it is not intended that any doubt whatsoever be cast upon the legality of the Attorney General's regulations, as already promulgated. [See, *e.g. Georgia* v. *United States*, 411 U.S. 526 (1973).]

The single amendment to H.R. 6219, adopted at the full committee level, serves to conform section 10 and title III of the present act to reflect the current state of the law and particularly the ratification of the 24th and 26th amendments. Title III of the current act, which prohibits the denial of the right to vote of citizens 18 years of age and older in National, State and local elections, was passed by the Congress as part of the 1970 amendments. In *Oregon* v. *Mitchell*, 400 U.S. 112 (1970), the Supreme Court upheld the constitutionality of title III insofar as it lowered the voting age to 18 for national elections. However, the Court held that that title III prohibition was not valid for State and local elections. Subsequently, in 1971, the 26th amendment to the Constitution was ratified. That amendment, by prohibiting the denial or abridgment of the right to vote of persons 18 years of age and older by the United States or any State, accomplishes the end which Congress had sought to achieve by its enactment of title III. The committee's amendment to title III deletes what are now unnecessary findings and prohibitions. The amendment retains, however, title III's enforcement provisions, but modifies them to authorize Attorney General enforcement of the 26th amendment.

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

In Harper, supra, the Court held that it is a denial of the equal protection clause of the 14th amendment for a State to deny the right to vote in its elections because of the failure to pay a poll tax. Section 10(b) is amended by adding section 2 of the 24th amendment to the other enforcement provisions, pursuant to which Congress directs the Attorney General to institute actions against poll tax requirements. Section 10(d) is deleted. That provision provides for the eligibility of voters in covered jurisdictions upon payment of current year poll taxes to either Federal examiners or local election officials. The 24th amendment to the Constitution and the Supreme Court's decision interpreting the 14th amendment now clearly prohibit the imposition of poll taxes for all elections.

The provisions of 11(c) of the act are amended to reflect the recent addition to Congress of Delegates from Guam and the Virgin Islands. The amendment made by section 406 of H.R. 6219 corrects what is apparently a typographical error which has appeared in the act since the adoption of the 1970 amendments.

I close now by again asking you full support for H.R. 6219. It is a bill which seeks to insure that minorities now protected by the act continue to be protected. And it also seeks to protect those minorities who are still, in 1975, excluded from the processes of democracy. These excluded citizens are waiting in the wings to see what your decision will be. I would only hope that your votes on this legislation would not add to the many tragic disappointments which they have already experienced in this great land of ours.

Mr. BUTLER. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, if I may have the attention of the gentleman from California (Mr. EDWARDS), it is not often that I have the benefit of a special "Dear Colleague" letter dealing with an amendment which I propose to offer, and I have before me the gentleman's "Dear Colleague" letter of last week in which, in paragraph 5, the gentleman mentions "The Butler amendment"—which I prefer to call the impossible amendment—"because of the difficulties it will make for those who wish to come out from under the act, suffers from a series of drafting problems and ambiguities."

I would appreciate it if the gentleman will tell me if I may fairly assume that those ambiguities and drafting problems are those set forth in the letter of the Civil Rights Commission dated May 16, 1975, which is in our hands.

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

Mr. BUTLER. I will yield to the gentleman from California.

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

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

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

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

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

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

Mr. Chairman, the chairman of the subcommittee has covered the legislation very well. I will not burden the House with the details of it again, except to say that once more that the Voting Rights Act was enacted in response to a shameful situation existing in 1964 requiring governmental action. I regret it was Federal action. The Voting Rights Act, in my judgment, does violence to the Federal system, and at the time I would have thought it was unconstitutional. The Supreme Court has indicated otherwise.

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

If I may have the attention of the gentleman from California (Mr. EDWARDS), on this account, I call attention to a copy of the letter of May 27, 1975, from the attorney general to me, in which he said:

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

This indicates that the voting situation in Virginia was dramatically better before 1964 than these figures indicate, and I would ask the gentleman if he has had an opportunity to determine where this error arose or to verify it or not.

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

Mr. BUTLER. Yes, I yield to the gentleman from California.

Mr. EDWARDS of California. The table in the committee's report to which the gentleman from Virginia (Mr. BUTLER) refers appears on page 43 of the recently released report of the U.S. Commission on Civil Rights, "The Voting Rights Act Ten Years After." In utilizing that report and the tables which appear there we have, of course, relied on the information furnished to us.

Mr. BUTLER. All right. Has the gentleman made any effort to check behind the report of the Civil Rights Commission on this point?

Mr. EDWARDS of California. This is an official Government agency which is provided funds by Congress, and generally their information is very reliable.

Mr. BUTLER. I thank the gentleman, but we will assume that there was no effort made to check these figures. I will, of course, stick, for the record, to the letter of the Attorney General for

an explanation as to exactly where they appear because there are distortions.

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

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

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

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

I mention this so that the Members may be aware of exactly how it works: Each time we change a voting procedure in any of the covered jurisdictions, that change in the voting procedure has to go to Washington, D.C., to be approved by the Attorney General of the United States.

The classic example of this is one which occurred in the State of Virginia where the change would have required the partitioning off of the hallway in the city hall of the city of Fredericksburg, Va., of 3 feet of the registrar's office. The city was advised by the Department of Justice that this was a change which was subject to the preclearance provisions and the hallway could not be widened creating an alcove in the mayor's office. This record indicates, as it does in the case of all of these classic examples, the details which must be taken to and approved in Washington; this is an affront to the sovereignty of the covered jurisdictions.

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

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

For example, we in Virginia have had over 2,200 changes in voting laws which have been submitted to the Office of the Attorney General of the United States. A letter from the Office of the Attorney General dealing with reference to the amount of time that must be taken to process section 5 submissions indicates that an average of 54 days are taken for a routine submission that is sent to the Office of the Attorney General of the United States for its approval, and the result is that we are continually in a never-never land as to which changes are correct State law, and which are not. The average time for all submissions to be processed is 54 days, and those to which objections are entered average 67 days. This is indeed a burden to the State of Virginia. In the State of Virginia we have 134 separate local, election jurisdictions, and all of those people have to be cognizant of the Voting Rights Act, and understand what it is all about.

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

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

The Supreme Court of the United States has said——

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

The CHAIRMAN. The time of the gentleman has expired.

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

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

Mr. BUTLER. Mr. Chairman, I would prefer that I be permitted to complete my statement, and then I will be happy to yield to the gentleman from Massachusetts.

Mr. Chairman, I wish to emphasize the point that under the existing legislation there is no way that a covered southern jurisdiction in the United States can get out from under it. To bail out of the act, a jurisdiction proves that its literacy test did not discriminate.

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

That raises a serious question because what we are doing by extending this act for 10 years is we are sentencing every covered jurisdiction to submitting every change in its voting procedure, every little change in its voting procedure, to the Attorney General of the United States, whom no one elected, until 1985 because of a presumed voter discrimination, a conclusively presumed voter discrimination which occurred in 1964. People will be voting in 1985 who were not even born in 1964. Bear in mind that in effect for two Presidential elections. this law for 10 years; it has already been in effect for two presidential elections. We are extending it for three additional Presidential elections. This is not a small step; it is a tremendous step; and it raises serious constitutional questions—serious constitutional questions which, I might add, have never been responded to by proponents of the legislation.

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

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

But whether we agree or not, this is an important constitutional problem. It is important also that those covered jurisdictions of the South may have an opportunity to work their way out from under this act. The way this "bail out" will work is that those covered jurisdictions which have been "pure" under the act for 5 years and which have a 60-percent turnout of minority voters, and that is substantial—and in addition to these two factors have an affirmative legislation program which meets the complaints the chairman suggested, and which meets the complaints of the gentleman from California: all of those little things about registrars not being available, about voting places being in the wrong place—an affirmative legislative program to work its way out from under the act, will be given the opportunity to do so, and that will make the

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

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

HISTORY OF THE VOTING RIGHTS ACT OF 1965 AND H.R. 6219

The Voting Rights Act of 1965 was enacted to prevent State and local laws and practices from denying or abridging the right to vote to black citizens. While the act was designed to apply neutrally on its face based upon the 1964 Presidential election, the major purpose and effect of the legislation was to cover six Southern States and a large portion of a seventh Southern State where the record indicated that voting discrimination was most rampant.

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

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

DEAR CONGRESSMAN BUTLER: Having reviewed the Report of the Committee on the Judiciary, accompanying H.R. 6219 (Report No. 94–196, 94th Cong., 1st Sess., May 8, 1975), I would like to draw your attention to an error in the Committee's Report dealing with the proposed extension of the Voting Rights Act. The statement on page 6, to the effect that dramatic increases in black registration occurred in Virginia as a result of the Voting Rights Act, is incorrect. Moreover, the chart printed on that page, purporting to show black and white registration rates before and after passage of the Voting Rights Act, is also, at least as it applied to Virginia, inaccurate and quite misleading.

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

Second, not only does the chart select its pre-Act and post-Act registration figures from inconsistent sources, but the pre-Act figures chosen for Virginia are incomplete and inaccurate on their face. Those figures are taken from estimates set forth in Appendix VII, Table 12, of the U.S. Civil Rights Commission's publication, *Political Participation*. A review of this appendix reveals that the estimate for black registration in Virginia totally excludes the number of blacks registered in the City of Richmond. In other words, although the black voting-age citizens in that jurisdiction are included in calculating the total black voting-age population of the Commonwealth, not a single black citizen of that jurisdiction is counted as having been registered. Moreover, the black registration figures used in the appendix are based, for a number of Virginia counties, on estimates as of April 1964—some five months before the registration books closed for that year. Thus, the estimate of black registration in Virginia in 1964, set forth in the appendix and used by the Committee in its Report, omits a large number of black citizens who were actually registered in that year.

The Report's use of such a patently incomplete figure is especially difficult to understand in view of the fact that the Voter Education Project did publish figures showing black and white registration in Virginia in 1964, which filled that gap left by the Commission's estimate. Based on the Voter Education Project figures, 200,000 of Virginia's black citizens, or over 45.7 percent of the black voting-age citizens of Virginia, were registered to vote in 1964. In that same year, 55.9 percent of Virginia's white citizens were registered to vote.* 4 *Voter Education Project News* Nos. 1 and 2 (Jan.-Feb. 1970); 2 *Voter Education Project News* No. 4 (April 1968); 111 *Cong. Rec.* 10062 (1965); *Hearings on H.R. 6400 Before Subcommittee No. 5 of the House Committee on the Judiciary*, 89th Cong., 1st Sess., ser. 2, at 257 ("1965 House Hearings").

These figures, developed by the Voter Education Project, showing the black and white registration rates in Virginia in 1964, were previously used by Congress when it originally considered the Voting Rights Act in 1965 (111 *Cong. Rec.* 10062 (1965); 1965 House Hearings at 257), and more recently were accepted by the United States District Court for the District of Columbia and by the United States Supreme Court in Virginia's recent action to obtain limited relief from certain provisions of that Act. *Commonwealth of Virginia* v. *United States*, 386 F. Supp. 1316 (D.D.C. 1974) (three judge court), *aff'd*, —— U.S. ——, 95 S.Ct. 820 (1975).

If the Voter Education Project figures are employed—and a chart developed consistently using the figures developed by that organization—quite a different picture emerges. According to the Voter Education Project, between 1960 and 1964, prior to the passage of the Voting Rights Act, black registration in Virginia almost doubled—from approximately 100,000 in 1960 to 200,000 in 1964. By contrast, in 1966, over a year after the Voting Rights Act was enacted, 205,000 blacks were registered in Virginia—an increase of just 2.5 percent. 4 *Voter Education Project News* Nos. 1 and 2 (Jan.-Feb. 1970); 2 *Voter Education Project News* No. 4 (April 1968).

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

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

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

On January 27, 1975, H.R. 2148 was introduced to offer the administration's proposal to extend for another 5-year period both the special coverage provisions and the nationwide ban on literacy tests and devices. Just prior to the commencement of hearings on these two measures, two bills were introduced to expand coverage of the Voting Rights Act. H.R. 3247, introduced by Ms. JORDAN, would have covered jurisdictions, based upon voter turnout in the 1972 Presidential election, if an election was conducted

*These figures show a 10.2 percent differential between black and white registration rates in Virginia in 1964, the year before the Voting Rights Act was passed. It should be noted that a differential of 11.5 percent between black and white registration existed in the nation as a whole in 1966, the year following passage of the Act. U.S. Bureau of the Census, *Current Population Reports*, Series P–20, No. 208 (1970).

in English only in an area where more than 5 percent of the persons of voting age were of a single mother tongue other than English. H.R. 3501, cosponsored by Messrs. ROYBAL and BADILLO, would have expanded coverage of the act to include persons of Spanish origin in a similar manner. Neither bill mandated bilingual elections as a remedy.

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

Upon conclusion of the hearings, H.R. 5552 was introduced and cosponsored by Messrs. BADILLO and ROYBAL and Ms. JORDAN. The bill contained three titles. The first title extended the special coverage provisions of the act for 10 years and permanently banned tests and devices similar to H.R. 939. The second title represented a compromise between H.R. 3247 and H.R. 3501 expanding coverage to the following "language minority groups": American Indians, Asian Americans, Alaskan Natives, and persons of Spanish heritage. The third title was entirely new and was based on a draft submitted to members of the majority party, after the record was closed, by the Department of Justice. This new bill furnished the basis for markup of this legislation in subcommittee.

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

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

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

HOW THE VOTING RIGHTS ACT WORKS

The original Voting Rights Act of 1965 consisted of 19 sections including the title. In 1970 titles II and III were added to deal with a nationwide ban on tests and devices, residency requirements, and to reduce the voting age to 18. All of these provisions are permanent except for section 291 which bans literacy tests and devices until August 6, 1975. Additionally, the jurisdictions subjected to the special coverage provisions of sections 4, 5, 6, and 8 in 1964 will be able to escape these provisions in reality after August 6, 1975. It will be necessary only to examine these sections of the act which are the subject of extension by H.R. 6219, and to explain section 3 of the act which is also the subject of revision.

Section 4 of the act establishes the trigger of the act in section 4(b) and also provides for a "bail out" in section 4(a). The trigger determines which jurisdictions will be subjected to the special coverage provisions of sections 4, 5, 6, and 8. The "bail out" determines when these covered jurisdictions can be released from the special coverage provisions.

Section 4(b) triggers the special coverage mechanisms of the act in all States or political subdivisions which the Attorney General determines maintained a test or device on November 1, 1964, or on November 1, 1968, and with respect to which the Director of the Census determines that less than 50 percent of the persons of voting age residing therein were registered on November 1, 1964, or November 1, 1968, or that less than 50 percent of such persons voted in the Presidential election of 1964 or 1968 respectively. The term "test or device" is defined in section 4(c) to mean: "any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class."

Section 4(a) enables a covered jurisdiction to "bail out" by filing, as plaintiff, an action for a declaratory judgment against the United States in the U.S. District Court for the District of Columbia and proving that for the past 10 years, no test or device has been used with the purpose or with the effect of denying or abridging the right to vote on account of race or color.

Additionally, during the 10 years preceding the filing of the action, no court of the United States must have entered a final judgment with respect to such plaintiff determining that a test or device has been used within the territory of the plaintiff to deny or abridge the right to vote on account of race or color. For purposes of the bail out, section 4(d) of the act excuses de minimis applications of a test or device by providing that—

> No State or political subdivision shall be determined to have engaged in the use of tests or devices for the purpose or with the effect of denying or abridging the right to vote on account of race or color if (1) incidents of such use have been few in number and have been promptly and effectively corrected by State or local action, (2) the continuing effect of such incidents has been eliminated, and (3) there is no reasonable probability of their recurrence in the future.

Once a jurisdiction successfully bails out, under section 4(a) the court retains jurisdiction over the case for 5 years after the date of judgment. During that period, the Attorney General may compel the court to reopen the case by making a motion alleging that a test or device has been used for the purpose or with the effect of denying or abridging the right to vote on account of race or color. Case law has established that if the court sustains the allegations, then the culpable jurisdiction is recovered under the act.

As previously described, the trigger of section 4 acts to cover a State or political subdivision, a term defined in section 14(c)(2) to mean "any county or parish, except that where registration for voting is not conducted under the supervision of a county or parish, the term shall include any other division of a State which conducts registration for voting" that is, a municipality or school district. Once the trigger is activated, such covered jurisdiction becomes subjected to the extraordinary remedies of sections 4, 5, 6, and 8.

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

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

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

The preclearance requirement of section 5 imposes an enormous burden upon a covered State and its political subdivisions. An extraordinary example is one which occurred in the State of Virginia. The city hall of the city of Fredericksburg was scheduled to have a hallway enlarged to make a alcove for a sitting room for the mayor. Such a change would have required partitioning off approximately 3 feet of the registrar's office. The city was advised by the Department of Justice that this was a change subject to the preclearance provisions of the Voting

Rights Act, and the hallway could not be widened for 60 days. See hearings on H.R. 939 before the Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary, 94th Congress, 1st session, serial No. 1 at 761 (1975)—hereinafter referred to as "Hearings."

The record indicates that nearly 4,000 submissions have been made pursuant to section 5 in the past 4 years alone. Hearings at 182. Moreover, J. Stanley Pottinger, Assistant Attorney General, stated in a letter to subcommittee chairman DON EDWARDS dated May 6, 1975, that in 1974 it took the Department of Justice an average of 54 days to act upon section 5 submissions; submissions which received departmental objections took an average of 67 days to be considered due to requests for supplemental information. In the case of the State of Virginia, testimony at page 763 of the hearings indicated that 134 local election boards in addition to the State are required to process section 5 submissions. All of this evidence confirms that the burden of section 5 is substantial.

Section 6 allows the Attorney General, inter alia, to certify that in his judgment the appointment of examiners is necessary to enforce the guarantees of the 15th amendment whereupon the Civil Service Commission must appoint as many examiners for the jurisdiction as it deems appropriate. The examiners prepare and maintain lists of persons eligible to vote and, pursuant to section 7, examine applicants in the covered jurisdiction concerning their qualifications for voting. Those applicants who are found to be qualified are given a certificate of qualification pursuant to section 7(c), and such person's name is placed on an eligibility list entitling him to vote unless a challenge to his qualifications is sustained pursuant to section 7(d).

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

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

Section 201 of the act temporarily bans tests or devices until 1975 in jurisdictions not subject to the special coverage provisions of section 4. This section, added as a part of the amendments of 1970, was intended to complement the ban on tests and devices in section 4 to effectuate a temporary nationwide ban of all tests and devices.

The definition of "test or device" is identical to the definition previously detailed in section 4(c) of the act. On its face, the definition is very broad, encompassing even a rudimentary requirement of sanity. Fortunately, regulations have not prohibited reasonable forms of tests or devices traditionally used by the States to prevent persons adjudged criminally insane or otherwise ineligible from voting.

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

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

THE EFFECT OF H.R. 6219

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

As previously stated in tracing the legislative history, H.R. 6219 is divided into four titles. Title I extends the basic provisions of the act; titles II and III expand coverage of the act to language minorities; and title IV contains miscellaneous provisions including the expansion of section 3 of the act to any voting rights suit by an aggrieved person. An in-depth analysis of these provisions will prove useful.

Section 101 of title I extends the special coverage provisions of the act for another 10 years by changing the period of purity a covered jurisdiction must be able to prove it has not used a test or device from 10 years to 20 years. This will alter the section 4(a) bail out provision to freeze in covered jurisdictions who used tests or devices prior to 1965 for another 10 years.

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

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

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

Since all tests and devices were banned nationwide in 1970, a new trigger based upon the presence of a test or device as traditionally defined would never function unless a jurisdiction violated the ban imposed by section 201 of the act in 1970. Section 203 of the bill adds to the traditional definition of test or device, for purposes of the new trigger, the conducting of an English-only election in a jurisdiction where more than 5 percent of the citizens of voting age residing therein are members of a single language minority group.

In effect, if a jurisdiction had less than 50 percent of its population registered and voting in the 1972 Presidential election and that jurisdiction conducted an election only in the English language where more than 5 percent of the citizens of voting age residing in the jurisdiction were separately either American Indian or Asian American or Alaskan Nations or of Spanish heritage, then such jurisdiction will become covered by the act. Section 203 of the bill makes clear that the jurisdiction is culpable if any practice or requirement, including any registration or voting notices, forms, instructions, assistance, or other materials relating to the electoral process, such as ballots, is provided only in the English language where there is more than 5 percent of a single language minority group. The term single language minority does not mean that all members of the group must speak a single language; rather it means that each of the four language minority groups will be considered as a separate unit for the 5-percent test.

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

the applicable language minority group as well as in English.

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

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

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

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

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

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

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

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

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

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

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

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

Section 406 makes a simple technical correction to section 203 of the act by replacing the reference to 28 U.S.C. 2282 with a correct reference to 28 U.S.C. 2284.

Section 407 amends title III of the act to modify the provisions relating to the 18-year-old voting age in light of the 26th amendment. Similarly, section 408 amends section 10 of the act with respect to the poll tax in light of court cases and the 24th amendment.

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

SHORTCOMINGS OF THE VOTING RIGHTS ACT AND H.R. 6219

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

Each of these points will be elaborated upon. The first three points can be grouped together. Because of the recent holding in Virginia against United States, there is no way that a Southern State can bailout of the act within the temporary period of coverage. That case held that where a State had maintained separate and inferior schools for blacks prior to 1954, any literacy test or device applied by such State would almost certainly deny or abridge the right to vote on account of race or color in violation of the bailout clause as long as persons receiving an inferior education were among persons eligible to vote.

Since the Southern States are frozen in under the act until 1985, they have no incentive to improve their voting laws. Even if 100 percent of the minority citizens were registered and voted, the State could not escape from the onerous burdens of the Voting Rights Act. Since any voting change in a covered jurisdiction must be submitted to the Attorney General in compliance with section 5, the incentive is to avoid the bother in producing the evidence and proof needed to justify a change in voting by keeping old laws on the books. Hence, old laws, which may be discriminatory in purpose or effect, remain on the books; and the Attorney General cannot remedy this entrenched discrimination because he has power to review only voting changes different from those in force and effect on the date of coverage of the jurisdiction.

One other result of the failure of the act to provide a meaningful bailout provision with respect to the Southern States is that it may be unconstitutionally overbroad. A statute is overbroad when it punishes those who deserve to be punished as well as those who do not. The Supreme Court in the original constitutional challenge to the Voting Rights Act, in South Carolina against Katzenbach, noted that the bailout saved the statute from being overbroad.

But now, with the bailout of section 4(a) being a nullify with respect to the

South, the question of overbreadth remains ripe for litigation. The argument, quite simply, is that once States no longer deny or abridge the right to vote in violation of the fourteenth or 15th amendments, the power to impose the extraordinary remedies of the Voting Rights Act upon those States evaporates. In South Carolina against Katzenbach, the Court stressed that only a pervasive and insidious evil warranted these stern and elaborate remedies that infringe upon areas traditionally left to the States. In his eloquent dissent, Mr. Justice Black thought that these remedies were unconstitutional in distorting the balance of federalism to leave the States as little more than conquered provinces. Thus, unless a source of power within the Constitution can support the imposition of these severe remedies, other provisions of the Constitution mandate their unconstitutionality. In this context, prior unequal educational opportunity is wholly unrelated to present voting discrimination and is not in and of itself a source of power to warrant these remedies.

Legally, the findings of discrimination necessary for an extension of this act are the same as if this were an original enactment. It is doubtful that there is sufficient evidence on the record to warbeing continued when in fact no discrimnecessary to support extending the old trigger; but even if such evidence did exist, unless the act permitted a State to bail out by showing that coverage was being continued when in fact no discrimination exists, the act would be unconstitutionally overbroad. But by making the presence of voters who received an inferior education a bar to an effective bail out, the act fails to provide a meaningful and constitutionally necessary bail out provision.

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

Even the original act focused on a 5-year trigger period running back to August 6, 1960. Yet, this extension moves into uncharted territory forcing States to justify tests imposed back as long ago as August 6, 1955.

For these reasons, the present act, as extended by H.R. 6219, stands on an unsound constitutional footing.

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

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

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

Testimony during the hearings also made clear that the method of extending the special coverage provisions of the act as accomplished by H.R. 6219 is inefficient. The method of extension, as previously discussed, is to lengthen the period of purity necessary to bail out from 10 years to 20 years. While this method will keep those southern jurisdictions originally covered in 1965 under the act until 1985, it has the side effect of keeping those jurisdictions covered in 1970 under the act until 1990. Another defect is that if any test or device is used by accident in some small subdivision within a State in, for example, 1984, that State would be kept under the act until 2004. This is too steep a price to pay especially if a less restrictive means of accomplishing a 10-year extension is available.

Finally, neither the bill nor the act prohibits a person from voting more than once in a Federal election. While section 11 of the act does regulate fraudulent registration, it is possible for a person to validly register in more than one jurisdiction and vote twice without breaking any law. At least six States have no law prohibiting registration in more than one voting location; the law of many other States is at best ambiguous on the issue. Hence section 11 of the Voting Rights Act fails to prevent one obvious means of diluting the minority vote by failing to prohibit multiple voting.

The shortcomings of the act are severe, but identifying the problem is only half of the battle. Affirmative, constructive solutions are necessary to correct the deficiencies. Accordingly, a discussion of several practical solutions is at last in order.

SOLUTIONS TO THE DEFICIENCIES OF THE VOTING RIGHTS ACT AND H.R. 6219

Although many solutions to remedy the deficiencies of the Voting Rights Act and H.R. 6219 have been proposed, only those that are reasonable and meaningful will be reviewed. Clearly, an amendment in the nature of a substitute revamping the entire structure of the act is appropriate if it leads to a better, more rational act with respect to voting rights. Barring the adoption of such a substitute, amendments dealing with the deficiencies discussed above, especially in the area of a bail out provision, are sorely needed. Fortunately, proposals covering each of these alternatives have been drafted.

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 6219

Mr. Chairman, my colleague from California, Mr. WIGGINS, proposed an amendment in the nature of a substitute to H.R. 6219 shortly after the full committee on the Judiciary refused to adopt amendments to improve and perfect the Voting Rights Act. The substitute received bipartisan support and was included in the supplemental views at pages 97–103 of the report on this legislation; it was subsequently introduced as H.R. 6985.

The substitute takes a bold new look at the problem of voting rights taking account of present realities rather than focusing on historical circumstances. The purpose of the substitute is to remedy and eliminate entrenched discrimination by giving a covered jurisdiction an incentive to encourage minority voter turnout and to reform outdated election laws. The amendment accomplishes this goal by changing the trigger mechanism of section 4(b) to operate prospectively based upon minority voter turnout in biannual general Federal elections. At the same time, progressive measures of H.R. 6219 are incorporated into the substitute to provide a politically palatable package.

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

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

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

The rationale for such a trigger is readily apparent. It is more rational to determine whether minority citizens are currently being denied their voting rights than to retrospectively focus on events occurring more than 10 or 20 years ago. Such a trigger applies on a uniform national basis where discrimination actually occurs rather than penalizing a region of this Nation in which discrimination regrettably occurred in the past.

The substitute does much more than amend the coverage provisions of the trigger. Section 3 also amends the length of coverage of the trigger to provide that a jurisdiction will be covered only based upon a triggering determination which focuses on minority voter turnout in the most recent general Federal election. Thus if a covered jurisdiction can encourage a sufficiently significant minority voter turnout in a subsequent general Federal election, it automatically escapes from the special coverage provisions of the act once the Director of the Census makes such a determination. This kind of an escape provision is salutary inso-

far as it encourages a high minority voter participation, one goal which the present act fails to pursue. Also it encourages covered jurisdictions to take whatever action is necessary to achieve such a turnout; this may include bilingual ballots, at large elections, or other measures requested by the minority community.

To prevent the trigger from being unconstitutionally overbroad, a bailout provision is included by amending section 4(a) of the act to determine whether the covered jurisdiction has any voting practice which does or is likely to deny or abridge the right to vote on account of race or color or national origin. Although a jurisdiction trips the trigger and is subjected to coverage based upon minority participation, the bailout will not function if there is any discrimination against any racial or ethnic group.

This differs from the bailout provision found in H.R. 6219 which tolerates discrimination against some ethnic minorities. Those supporting the substitute feel that once a jurisdiction is covered, that no voting discrimination against any person can be tolerated. Even if a jurisdiction can successfully bail out, the court retains jurisdiction for the balance of the period until determinations are made following the next general Federal election after the filing of the action. This will prevent a jurisdiction from enacting any discriminatory laws or practices.

Section 3 of the substitute also amends the preclearance provisions of section 5 effective February 6, 1977, to permit the Attorney General to review all voting laws of a covered jurisdiction—both those on the books prior to coverage and laws enacted after coverage. One of the deficiencies previously referred to is that under the present act, the Attorney General cannot review laws enacted prior to the date of coverage. This substitute remedies this defect by mandating a submission of all voting laws to the Attorney General prior to their enforcement.

Another modification in section 5 of the act effectuated by the substitute is the focus on any form of voter discrimination rather than a restricted protection of certain minority groups. As is done with respect to the bail out provision, the substitute recognizes that any discrimination should be prohibited regardless of the national origin of the victim. Once an Attorney General must review a voting change there is no justification for condemning discrimination against some ethnic groups, as is done with the current act and perpetuated by H.R. 6219, while failing to condemn discrimination against other ethnic groups merely because they do not have colored skin.

Section 4 of the substitute incorporates changes to section 3 of the act similar to those made in H.R. 6219. However the substitute provides a remedy to redress discrimination against all national origin groups whereas H.R. 6219 extends the section 3 protections only to certain types of aggrieved persons. Effective February 6, 1977, section 3 is expanded to allow the court to strike down any voting change regardless of when it was enacted. Since the revised trigger embodied in the substitute is prospective and part of permanent legislation, it is appropriate to offer section 3 relief to an aggrieved person in a consistent context. Thus, under the substitute, the court will retain jurisdiction only until determinations are made following the next general Federal election after the filing of the action.

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

Section 7 of the substitute enlarges the survey provisions of section 403 of H.R. 6219 to ascertain voting statistics on a nationwide basis rather than only in the covered jurisdictions. Also the survey makes mandatory the divulging of racial information, and elicits citizenship information as well. It is inconceivable that a trigger based upon citizenship can be evaluated by a survey which fails to elicit that fact. Yet the survey in section 403 of H.R. 6219 excludes all factors not specified therein from being ascertained. The substitute eschews this wasteful policy by recognizing the economies of scale available; to this end, additional questions are not prohibited.

Mr. Chairman, for these reasons I strongly urge my colleagues to support the amendment in the nature of a substitute to H.R. 6219. But if the substitute is not adopted, then every effort should be directed toward perfecting H.R. 6219. There are several proposals before us designed to accomplish that result.

NEED FOR A MEANINGFUL BAILOUT

By far the most glaring defect in the present act, as modified by H.R. 6219, is the failure to provide the presently covered jurisdictions with a meaningful bailout mechanism or with any other incentive to reform their election laws. To remedy these deficiencies I have drafted an amendment called the "impossible bailout." Mr. Chairman, to place my bailout amendment to H.R. 6219 in perspective, a complete account of its evolution should prove useful.

The need for a meaningful bailout device was first set forth in *South Carolina* v. *Katzenbach*, 383 U.S. 301, 331 (1966). The Court noted that the Voting Rights Act of 1965 provided a termination mechanism to prevent it from being unconstitutionally overbroad. A statute is overbroad when it unjustifiably punishes those who do not deserve to be penalized as well as those who do. While the 15th amendment can legally warrant a Federal restriction of State powers if a State is denying or abridging the right to vote on account of race or color, such restriction would be unconstitutional in the absence of evidence that voting discrimination exists within the affected jurisdiction.

Early this year, the case *Virginia* v. *United States*, 386 F. Supp. 1316 (D.D.C. 1974), aff'd per curiam, 95 S. Ct. 820 (1975), effectively eliminated any hope that many of the covered jurisdictions could ever bail out of the act pursuant to the current termination provision in section 4(a). The court extended the doctrine of *Gaston County* v. *United States*, 395 U.S. 385 (1969), to hold that the previous existence of inferior schools for blacks would conclusively cause the application of any literacy test or device to result in the denial or abridgement of the right to vote on account of race or color. Since the bailout in section 4(a) can only operate if the State can show that its test or device did not have the effect of denying or abridging the right to vote on account of race or color, the covered jurisdictions which maintained inferior schools for blacks prior to 1954 are helplessly trapped. There is nothing they can do to escape the preclearance provisions of the act, and since any change in voting practices is subject to the preclearance sanction, they have no incentive to reform their laws. Moreover, since the Attorney General can only review changes in voting practices, present discriminatory laws on the books remain invulnerable to attack resulting in entrenched discrimination.

Mr. Chairman, to remedy these deficiencies in the Voting Rights Act, I strived throughout the hearings on this legislation to elicit suggestions from many witnesses. This effort continued through markup of this bill at the subcommittee and full committee levels and culminated this past week. The result is the "impossible bailout amendment" which is designed to encourage covered jurisdictions to encourage minority voter participation, remain in compliance with the special coverage provisions of the act, and take affirmative action to pass and implement affirmative, progressive voting laws.

NEED FOR A MEANINGFUL BAILOUT

Once these stringent requirements are met, the jurisdiction is rewarded with an exemption from the preclearance sanctions of section 5 subject to a 10-year probation period. I have called this amendment the impossible bailout amendment because it is not possible to meet the rigid requirements to bail out under this proposal based upon the composition of the legislatures in the covered jurisdictions and their penchant for passive legislation. Compliance with the proposed amendment can only be achieved by radical reforms and a total commitment to the goals and objectives of the Voting Rights Act and the 14th and 15th amendments.

IMPOSSIBLE BAILOUT AMENDMENT EXPLAINED

This amendment represents the distillation of effort of several of my colleagues and the Assistant Attorney General of the Civil Rights Division of the Department of Justice. A less perfect version was offered in committee and failed as the result of a 17 to 17 tie vote. Many members of the committee have given me the benefit of their judgment of the amendment and suggested changes. I am grateful for their help. It is my hope that the refinement of my amendment subsequent to the vote in committee will result in its adoption. To that end, a detailed evolution of each section of the amendment will be developed.

The impossible bailout amendment is to be inserted at the end of the present

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

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

(1) The Director of the Census has determined that no less than sixty per centum of the eligible citizens of voting age of minority race or color or national origin (which terms include language minorities) residing therein on the date of the most recent general election for President or Members of Congress were registered to vote and no less than sixty per centum of such citizens voted in said election.

Section 1 of the bailout currently provides that the State or political subdivision, in order to obtain a declaratory judgment, must prove that the Director of the Census has certified that no less than 60 percent of the eligible citizens of voting age of minority race or color or national origin residing therein on the date of the most recent general election for President or Members of Congress were registered to vote and voted in that election. This section was originally drafted to test whether 60 percent of the voting age population was registered and voted and whether there was any substantial statistical disparity evidencing a denial or abridgment of the right to vote on account of race or color. Although this section received support in the hearings, Representative BADILLO suggested, in subcommittee, that the substantial statistical disparity language was vague and that "race or color" did not embrace the expansion of the act to language minorities.

Prior to the full committee meeting, the section was redrafted to measure whether 60 percent of the general population of voting age were registered and voted and to test whether the percentage of persons of minority race or color or national origin—which terms include language minorities—who were registered and the percentage of such persons who voted were not substantially less than the percentage of registration and voting for the general population. While this draft did incorporate the suggestion of Representative BADILLO concerning language minorities, the new language testing whether minority registration and voting percentages were substantially less than general population percentages was attacked as vague by Representatives BADILLO, JORDAN, and DRINAN.

To cure the problems of vagueness, the present language tests in absolute terms whether minorities register or vote less than 60 percent. To insure the validity of the statistics, the Director of the Census is the only source that may make such a determination. Of course, as indicated so eloquently by my colleague from California, Mr. WIGGINS, 60 percent is not a hard number. Rather than waste the time and money it would take to zero in on exactly 60 percent, with customary 95 percent certainty, ascertaining whether that level has been reached by producing clear and convincing evidence should prove sufficient to implement the policy of this legislation; this means that if the Director of the Census statistically determines a jurisdiction to have at least 60 percent minorities voting, that in reality he will be approximately 75 percent certain that the true percentage is no lower than 60 percent.

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

The second set of circumstances is set forth in section 2 as follows:

(2)(A) At all times during the two years preceding the filing of the action for a declaratory judgment, there were no objections interposed by the Attorney General (which were not overriden by the granting of a declaratory judgment) or the denial of a declaratory judgment by the United States District Court for the District of Columbia, pursuant to this Section, against such State or political subdivision; and

(B) At all times during the five years preceding the filing of such action for declaratory judgment there has been—

(a) no final judgment of a federal court ruling that such State or political subdivision has denied or abridged the right to vote on account of race, color, or in contravention of the guarantees set forth in section 4(f)(2) in violation of the fourteenth or fifteenth amendment, or any legislation implementing such amendments;

(b) no change in any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting in such State or political subdivision put into force or effect without timely filing of a declaratory judgment action in the United States District Court for the District of Columbia or timely submission to the Attorney General pursuant to this Section;

(c) repealed any test or device as defined by subsection (c) of section 4 of this title and section 4(f)(3) and that all changes in any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting to which the Attorney General interposed an objection, or the United States District Court for the District of Columbia denied an action for declaratory judgment pursuant to this section, in such State or political subdivision, have been repealed or the objection withdrawn;

(d) no federal voting examiner sent to or maintained within such political subdivision or sent to or maintained within any political subdivision of such State pursuant to Section 6 of this title; and

(e) no incident of voting discrimination that has denied or abridged the right to vote on account of race or color or in contravention of the guarantees set forth in section 4(f)(2) in violation of the fourteenth or fifteenth amendments or any legislation implementing such amendments; or if there are any such incidents:

(1) the incidents have been few in number and have been promptly and effectively corrected by State or local action;

(2) the continuing effect of such incidents has been eliminated; and

(3) there is no reasonable probability of their recurrence in the future.

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

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

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

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

The first requirement enumerated by Mr. Pottinger, relating to final judgments of a Federal court, was attacked on two grounds. Representative RAILSBACK noted that since the act was being

expanded to cover language minorities that this restriction should apply to judgments based on the 14th amendment as well. The amendment was adopted in full committee and is now reflected in section 2(B)(a).

The second objection, voiced by Representative DRINAN, was that other evidence of discrimination including nonfinal judgments such as temporary restraining orders should be evaluated. A similar concern was voiced by Congressman FISH, and he urged the inclusion of a comprehensive section that would encompass other forms of discrimination. Such a section was drafted under his supervision and is now embodied in section 2(B)(e). This provision condemns any incident of discrimination and contains a de minimis provision similar to that found in section 4(d) of the act.

The other requirements set forth by the Attorney General were incorporated as suggested, with a slight expansion of the definition of "test or device" to include the new definition in section 4(f)(3), and have received overwhelming support. To clear up an ambiguity, adverted to by Representative DRINAN during markup at the full committee, the words "at all times" have been inserted at the beginning of section 2 to clarify that the language "during the 5 years preceding the filing of such action * * *" means at all times and not just at one point in time. Thus section 2(B)(b) provides that the State or political subdivision has the burden of proving that, at all times during the last 5 years, timely filings were made in compliance with the preclearance provisions. At the suggestion of Assistant Attorney General J. Stanley Pottinger, the word "of" was changed to "in" to insure that the voting changes in such State would include changes made by subdivisions. Section 2(B)(c) requires the State to prove at all times during the past 5 years that tests or devices have been repealed and that all changes once objected to, have been repealed or the objection withdrawn. The language allowing withdrawal of the objection as an alternative to repeal of the change was added after committee markup to deal with cases where, at the suggestion of the Attorney General, a voting change is modified rather than repealed, and the objection withdrawn. Lastly, section 2(B)(d) insures that, in the past 5 years, no examiners have been sent into or maintained within covered jurisdictions pursuant to section 6; while examiners can be authorized pursuant to sections 3 and 6, it is clear that they can be appointed only pursuant to section 6. The language referring to the maintenance of examiners within a jurisdiction was added after committee markup to clarify that the intention of the section was to focus on the presence of examiners within the covered jurisdiction.

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

(3) The laws of the State and its political subdivisions or of a political subdivision with respect to which a determination has been made pursuant to section 4(b) of this title as a separate unit provide and have been implemented to effectuate:

(a) An opportunity for every eligible citizen of voting age residing therein to register to vote including the opportunity to register during evening hours on a reasonable number of days each month and on a reasonable number of Saturdays and Sundays of each month;

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

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

(d) reasonable provision for minority representation among election officials at polling places where minorities are registered to vote;

(e) apportionment plans which assure equal voter representation;

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

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

(h) adequate opportunity for minority representation in all local governing bodies where eligible citizens of voting age of a minority race or color or national origin (which term includes language minorities) exceed twenty five per centum of the eligible citizens of voting age residing within such political subdivision.

Section 3 of the amendment was inspired by the report of the U.S. Commission on Civil Rights entitled "The Voting Rights Act: Ten Years After." That document carefully identified several problems confronting minority voters in areas of registration, candidacy, and voting, and may be summarized as follows:

First, outright exclusion and intimidation at the polls;

Second, inadequacy of voting facilities;

Third, location of polls at places where minority voters feel unwelcome or uncomfortable, or which are inconvenient to them;

Fourth, underrepresentation of minority person as poll workers;

Fifth, unavailability or inadequacy of assistance to illiterate voters;

Sixth, failing to locate voters' names on precinct lists;

Seventh, lack of bilingual materials at the polls for non-English speaking persons;

Eighth, problems with the use of absentee ballots;

Ninth, inconvenient times and places of registration;

Tenth, underrepresentation of minorities as registration personnel;

Eleventh, frequent purging of registration rolls necessitating reregistration;

Twelfth, unreasonsable filing fees;

Thirteenth, burdensome qualifications on independent or third party candidates;

Fourteenth, dishonest counting of votes;

Fifteenth, lack of access to voters at the polls; and

Sixteenth, lack of campaign information.

These findings illustrate the shortcomings of the act previously adverted to. The reasons for the existence of these problems are clear: The Voting Rights Act freezes in existing law and immunizes entrenched discrimination; the Voting Rights Act provides no incentive to the covered jurisdictions to change their laws; and the Voting Rights Act fails to combat many obstacles to minority voting, registration, and candidacy.

Section 3, which originally dealt with six problem areas, now covers eight broad areas in which a State or political subdivision must act and produce affirmative results. Some Members, including Representatives BADILLO, DRINAN, and JORDAN, indicated that the language in section 3 was vague. The introductory language was susceptible to the construction that either the laws of the State or any subdivision within the State could fulfill the obligations of section 3 while the other's laws need not do so. The present language clarifies that it must be the law within the jurisdiction which is covered by the act that complies with section 3 of the amendment. Thus, section 3 only applies to a subdivision with respect to which a determination has been made pursuant to section 4(b) as a separate unit. However, when the covered jurisdiction in question is a State, then section 3 applies to all laws of the State and its political subdivisions.

Section 3(a) was originally worded in terms of reasonability to allow a reasonable opportunity to register during a reasonable number of evening hours on a reasonable number of days each month, and on a reasonable number of Saturdays and Sundays. This was to meet the complaint that in many places minority persons are inconvenienced by the fact that registration hours coincide with working hours. Many Members agreed with the spirit of this provision, but they thought that the word "reasonable" made the section vague. Hence, prior to the markup in full committee, the word "reasonable" was deleted in two places to insure an opportunity to register during evening hours on a reasonable number of days each month and on a reasonable number of Saturdays and Sundays. The word was retained in two instances to give flexibility to the covered jurisdiction since it is unreasonable to force the State to allow registration 24 hours a day every day of the month.

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

Section 3(c) originally provided for reasonable locations of places of registration and voting with reasonable access, within reasonable distances of all persons of voting age residing within the jurisdiction. Again, after criticism from

Representatives BADILLO, DRINAN, and JORDAN, that the use of the word "reasonable" caused problems of vagueness, this section was redrafted into its present form prior to markup at the full committee. The section currently insures that eligible minority citizens will not have to face the difficulty of being forced to vote in an inaccessible or far distant location. The reasonability factor was retained in the case of distance because it was unfeasible to quantify a fixed distance into the statute in light of variations among election districts; while 3 miles might be reasonable in a rural area, it may be unreasonable in a densely populated area. The use of the word "places" was changed to the singular subsequent to full committee markup to dispel the possible interpretation that more than one place of registration or voting would be required for any citizen. The section merely insures that a person will not be inconvenienced by the location of a place of registration or voting to which he is assigned.

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

Sections 3(e) and 3(f) are new, representing the essence of an amendment offered by my colleague from Arkansas (Mr. THORNTON) and passed by the full committee. These sections respond to a critique of the amendment by Representative DON EDWARDS that oversight in the areas of reapportionment and gerrymandering was not adequately provided for. These sections insure that apportionment plans have been implemented to assure equal voter representation in compliance with the 14th amendment, and that such apportionment plans avoid the submergence of cognizable racial or minority groups. This will assure that minority voting strength is not minimized until at least 1986 in light of the fact that the first possible bailout could occur in 1976 and the court would retain jurisdiction for 10 years.

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

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

As was done throughout the amendment, the focus was changed from "persons" to eligible citizens of voting age residing within the jurisdiction to provide a more germane measurement.

The next paragraph of the amendment provides for an advisory opinion to be given by the Attorney General and for a consent decree to be entered if the Attorney General is satisfied that the covered jurisdiction has complied with each of the elements of the amendment. To prevent a jurisdiction from reenacting discriminatory laws after it bails out, the court retains jurisdiction during a probation period of 10 years. If any discriminatory voting practice is used with the purpose or effect of denying or abridging the right to vote on account of race or color or in contravention of the guarantees set forth in section 4(f)(2), then the Attorney General can sue and the court shall reopen the case and recover the jurisdiction. Although Representative DRINAN was concerned that the language permitting a reopening of the action was ambiguous, the case of *New York* v. *United States,* Civil No. 2419–71 (D.D.C.)—Orders of April 13, 1972, January 10, 1974, and April 30, 1974—*aff'd per curiam,* 95 S. Ct. 166 (1974) settles the matter. That case involved a successful bailout by three covered New York counties and the bailout was rescinded under section 4(a) pursuant to nearly identical language to that contained in the amendment. See footnote 5 at page 6 of the report on H.R. 6219. The reason for expanding the period of retention from 5 years, as is currently provided in section 4(a), to 10 years was to insure that the 1980 reapportionment would be within court supervision upon motion of the Attorney General.

The final paragraph of the bailout amendment was added after full committee markup of the legislation in combination with the revision made to section 1 with respect to the determination therein being made only by the Director of the Census. The final paragraph insures that inaction of the Director of the Census will not prevent a covered jurisdiction from bailing out by allowing a covered jurisdiction to mandate that such a determination be made upon request. At the same time the statistical determination is made nonreviewable as it is under comparable provisions in sections 4, 6, and 13 of the act.

The criteria incorporated in the impossible bailout amendment are rigorous and complete. Several persons have contributed to the refinement of the final language. Recently, Chairman DON EDWARDS requested Assistant Attorney General J. Stanley Pottinger to assess the impossible bailout amendment. Mr. Pottinger responded in a letter to Chairman EDWARDS dated May 6, 1975, in part as follows:

> It is my view that any bail out amendment must be comprehensive in scope and require proof of nondiscrimination in voting beyond nonuse of literacy tests or devices. The bail out proposed by Congressman Bulter in the Judiciary Committee mark up, to which you referred in your letter of April 23, is such a provision.

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

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

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

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

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

Although the record is clear that every reasonable effort has been made to accommodate the suggestions of Members who wish to see the Southern States reform their election laws in order to regain the sovereignty that is due them under the Constitution, some Members oppose the impossible bailout amendment and any other attempt to let the South escape this so-called Second Reconstruction prior to 1985. In a "Dear Colleague" letter dated May 29, 1975, Subcommittee Chairman DON EDWARDS stated five reasons for rejecting the impossible bailout amendment which can be summarized as follows:

First. No new bailout is needed since the bailout under the current act is adequate;

Second. New standards in the impossible bailout amendment are either vague or untested;

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

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

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

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

The first assertion is that the bailout currently in section 4(a) of the act is adequate. While the bailout in the present act has worked to allow jurisdictions outside the south to bailout, it is totally ineffectual with respect to the Southern States. As previously noted, the recent holding in *Virginia* v. *United States*, 386 F. Supp. 1316 (D.D.C. 1974), *aff'd per curiam*, 96 S. Ct. 820 (1975), extends the Gaston doctrine and presumes that any literacy test operates in a discriminatory manner in any State which had inferior school systems for blacks. It is not unreasonable to assume that this extension of the Gaston rationale will be further extended to bar a successful bailout by any jurisdiction, since blacks who have received inferior educational opportunities presumably reside in every State in the Nation. But even if the Gaston rationale is limited to plague the South, it renders the bailout in the present act completely inadequate. If a southern State has all of its black citizens registered, voting, and even elected to office, there is no way for the State to bailout under the act. The current bailout, if extended by H.R. 6219, will focus on events as long ago as 1955 to determine whether a State can escape from the act. Although it is accurate to say that this current bailout is irrational, unfair, and possibly unconstitutional, it is absurd to contend that it is "adequate" unless reconstruction legislation, which per se freezes in Southern States, is "adequate."

The second assertion is that the standards in the impossible bailout amendment are either vague or untested. The language in Chairman DON EDWARDS' letter also claims that—

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

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

Moreover, legislation that is susceptible to interpretation by the liberal U.S. District Court for the District of Columbia is anathema to the covered jurisdictions. History indicates that overly precise standards can be complied with to the letter while avoided in spirit. Thus the objection that the standards in the impossible bailout amendment are vague is more apparent than real.

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

The criticism that a 2-year period of purity is too short to insure that long-range voting improvements have actually been made is either naive or disingenuous. Only one of the five components of the period of purity is for 2 years with the balance requiring 5 years of purity. The 2-year period relates to objections having been interposed by the Attorney General, and, as previously noted, it was based upon a recommendation of the Assistant Attorney General of the Civil Rights Division of the Department of Justice. Since the standard prohibits a bailout if any objection has been interposed to any submission, no matter how trivial, it is obvious that a period of purity longer than 2 years with respect to this component would be unduly burdensome.

Moreover, it is the impossible bailout amendment as a whole which insures long-range voting improvements; while any portion of the amendment can be attacked individually, it is clear that the entire package absolutely guarantees the commitment of the covered jurisdiction to pass and implement progressive voting changes which have achieved tangible results.

The fourth objection is that section 5 does not prevent progressive changes in voting laws by the covered jurisdictions. While it is true that section 5 does not absolutely prohibit progressive changes, it cannot be denied that the burden of complying with section 5 preclearance requirements hinders and discourages a jurisdiction from making voting changes. The burden of preclearance in terms of cost and delay has been established on the record; it is misleading for Representative EDWARDS to write that "the State (sic) of Virginia now employs only one person part-time to take care (sic) of section 5 Submissions." While the State employs only one person, every local voting jurisdiction in the Commonwealth also employs at least one person to file submissions pursuant to section 5 of the Voting Rights Act. Thus hundreds and perhaps thousands of people throughout the South are caught up in the web of paperwork necessary to comply with section 5 and the numerous regulations promulgated thereunder.

The final criticism of the impossible bailout amendment stated in the letter is that the amendment suffers from a series of serious drafting problems and ambiguities "too numerous to address in detail." Unfortunately, the letter fails to even generally advert to either a drafting problem or an ambiguity. The reader is offered the cryptic comment that many of these problems "jeopardize policies and interpretations which have been applicable to the act since its inception in 1965." Rather than jeopardize the policies of the 1965 act, the impossible bailout amendment reinforces one policy of the act, recently subverted by the courts, that jurisdictions which in fact do not discriminate should not be covered by the act.

Mr. Chairman, this discussion has been lengthy, but it was necessary to reveal the substance and merit of the impossible bailout amendment. The amendment will encourage States and political subdivisions to modernize their voting laws and to encourage minority voter participation. Such an incentive is necessary and salutary; I urge my colleagues to adopt this amendment to cure the deficiencies of the Voting Rights Act.

The adoption of my bailout amendment will cure many, but not all, of the other deficiencies of the act previously enumerated. A brief discussion of five other amendments will reveal the formulation of practical solutions in many areas.

OTHER PROPOSED AMENDMENTS

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

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

In short, long after sections 4, 5, 6, and 8 are dead letters, section 3 will remain

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

Also, as presently drafted, section 401 of H.R. 6219 opens up the remedies of section 3 only to certain language or racial minorities. There is simply no reason to discriminate against Anglo ethnic minorities by denying them access to a remedy designed to prohibit voter discrimination.

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

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

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

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

The only reason for prohibiting actions from being brought in local U.S. Federal district courts is a politically based distrust of the judges sitting in those courts. The refusal of the supporters of H.R. 6219 to adopt an amendment permitting local venue reveals the true hypocrisy of those who steadfastly contend that this act is not regionally oriented reconstruction legislation. With the imminent expansion of this act being a real possibility, it is time to allow States to sue in local Federal district courts to reclaim their sovereignty under the Constitution. The inconvenience and cost of filing an action for declaratory judgment should no longer be a factor that a State must weigh in determining whether to seek relief from the act.

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

A fundamental defect with the structure of H.R. 6219 lies in its expansion to cover "language minorities", for example, American Indians, Asian Americans, Alaskan Natives, and persons of Spanish heritage. As previously discussed, there is no reason to deny relief to any group affected by voting discrimination. It can also be contended that the act should be triggered based upon indications of discrimination against any ethnic group; but if the trigger is to be selective, then it should be rationally limited to groups with respect to which the record indicates rampant discrimination.

The record with respect to this legislation is clear. The only language minority that was seriously considered was persons of Spanish heritage. This was the sole concern of H.R. 3501 and represented the concern of the overwhelming number of witnesses. In fact, no witnesses representing the needs of American Indians, Asian Americans, or Alaskan Natives even testified. The record makes no reference to Alaskan Natives and only scant reference to Asian Americans. Similarly, reference to American Indians is insubstantial. Yet each of these groups was included in the legislation to dispel the notion that this expansion, sponsored by Representatives BADILLO, JORDAN, and ROYBAL, was only for persons of Spanish heritage.

To supplement a practically barren record, I requested J. Stanley Pottinger to indicate what evidence the Department of Justice had concerning Alaskan Natives. He replied in a letter dated May 13, 1975, that he suggested using the term "any single minority race or color the native language of which is other than English" in response to a request from Chairman EDWARDS to draft expansion language. Mr. Pottinger said that the reason for using this term, which is substantially the same as "language minorities" as currently defined in H.R. 6219, was that "legislation of this nature should not single out individual racial groups when there are several racial groups which may be similarly situated." He went on to add, "[t]his is not to say that any evidence has been presented to us of a need for expansion of the coverage of the act to Alaskan Natives; we have received no specific evidence regarding them." I must respectfully disagree with Mr. Pottinger that many groups should be covered when the evidence at best justifies the inclusion of only one group.

If citizens of Spanish heritage are to be given special treatment, there is no reason to burden other States and political subdivisions where citizens of Spanish heritage are not present. Yet this act will impose severe sanctions on several jurisdictions whose residents include American Indians, Asian Americans, and Alaskan Natives. In order to rectify this overinclusive expansion of the act, amendments to strike Asian Americans, Alaskan Natives, and American Indians from the definition of "language minorities" will be offered. The record indicates that each of these amendments should be supported by all fair-minded Members.

If it is the will of the Congress that this act be extended for an additional 5 or 10 years, then it is exceedingly important that the extension be done in an efficient manner. If the intent is to extend the act until 1985, then we should not enact a provision that can freeze in jurisdictions until beyond the year 2000, as long as a less restrictive alternative is available.

One such alternative was recommended during the hearings. Instead of lengthening the period of purity from 10 to 15 or 20 years, the suggestion is to merely prohibit a covered jurisdiction from bailing out prior to August 6, 1985, and to reduce the burden of proof back to the original period of 5 years. This has the simplicity of insuring that every 1980 reapportionment plan of a covered jurisdiction will be subject to review. At the same time, the future use of a test or device will not result in the jurisdiction being punished for 20 long years.

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

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

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

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

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

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

Mr. Chairman, the Members of this Congress have a choice. We can pass H.R. 6219 and perpetuate the stench of reconstruction legislation which does more harm than good, or we can adopt

bold new legislation which will encourage affirmative action by the States to preserve and protect the voting rights of all of the people. The time to act is now.

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

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

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

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

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

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

Apart from the general thrust of H.R. 6219, I wish to address two particular provisions of this bill, sections 401 and 402. Both of these sections were proposed by me during the markup before our subcommittee, and were subsequently adopted as proposed. At the markup session before the full Judiciary Committee, a motion to strike section 401 was overwhelmingly defeated. Another attempt will be made on the floor to remove that section; I trust it will also fail. I should note that the substitute to be offered by the gentleman from California (Mr. WIGGINS), although greatly inferior to H.R. 6219, contains provisions identical to sections 401 and 402.

Section 401 amends section 3 of the Voting Rights Act of 1965 to provide parallel remedies to private litigants which are now available to the Attorney General. Under the present section 3, whenever the Attorney General initiates a voting suit to enforce the guarantees of the 15th amendment, he or she may ask the district court to impose the "special" remedies of the act which apply automatically in covered jurisdictions. In such suits, the court, in its discretion, may suspend any "test or device," authorize the appointment of Federal registrars—examiners—and observers, and require the defendant State or political subdivision to submit any voting change to the court or the Attorney General prior to implementing it.

The amendment which I sponsored, now section 401, would make the special remedies of section 3 available to private litigants. This is accomplished by adding the phrase "or an aggrieved person" to the appropriate places in section 3, specifying that either the Attorney General or "an aggrieved person" may seek the remedies of section 3 in any voting suit to enforce the guarantees of the 14th or 15th amendments. Such suits may, of course, be based directly upon those amendments, see *Bivens* v. *Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), or upon statutes enacted pursuant to them, such as 42 U.S.C. 1971, 1973, and 1983.

With this amendment, we provide a dual enforcement mechanism in the voting field as we have done in other areas of civil rights. In the Civil Rights Act of 1964, for example, Congress created both private and governmental remedies in the public accommodations and equal employment opportunity titles of that statute. Section 401 is intended to fill the dual enforcement hiatus that now exists in the Voting Rights Act.

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

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

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

The standing of such persons to bring suit is not a novel concept as the courts have long recognized such interests. In *Trafficante* v. *Metropolitan Life Insurance Co.*, 409 U.S. 205 (1972). *NAACP* v. *Button*, 371 U.S. 415 (1963), and *Barrows* v. *Jackson*, 346 U.S. 249 (1953), the Supreme Court held that individuals and organizations, other than the direct victims of the discrimination or members of the protected class, have standing to challenge exclusionary practices. Congress, of course, cannot go beyond the limits which article III of the Constitution places on the jurisdiction of the Federal courts. But we can legislate to the outer perimeters of that authority, and that is what we mean to do here.

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

Mr. Chairman, I also wish to comment on section 402, a provision which I offered as an amendment during the markup. This section authorizes the court, in its discretion, to award a reasonable attorney's fee to the prevailing party in a voting suit. This provision is extremely important if the dual enforcement scheme envisioned by section 401 is to be effective. We cannot expect private

litigants, especially minorities, to bear the tremendous costs of instituting suit to remedy unlawful voting practices. In the wake of the recent decision of the Supreme Court in *Alyeska Pipeline Service Co.* v. *Wilderness Society,* No. 73–1977 (May 12, 1975), the importance of section 402 is underscored. In that case, the Court held that counsel fees are not ordinarily recoverable, even by "private attorneys general," in the absence of a statute authorizing them. No such statute presently exists for voting suits.

Section 402 takes on added significance when it is considered that the ordinary plaintiff in a voting suit is seeking only an injunction. Thus the need for recovering counsel fees is even greater than might be in the case where damages are also obtained. Consequently, under section 402, a successful litigant seeking to secure voting rights "should ordinarily recover an attorney's fee unless special circumstances would render such an award unjust." *Newman* v. *Piggie Park Enterprises, Inc.,* 390 U.S. 400, 402 (1968) (per curiam). Of course, even if damages are awarded, counsel fees would still be appropriate.

The provision for attorney fees in section 402 is available in "any action or proceeding to enforce the voting guarantees of the 14th or 15th amendment." Such litigation would include not only suits based directly on those amendments, but also cases based on statutes passed pursuant to them, such as 42 U.S.C. 1971, 1973, and 1983. The phrase used are words of inclusion, not limitation. To the same extent, the provision is available to the State court as well as the Federal court litigant. This is the scheme we enacted in the Federal Fair Housing Act, 42 U.S.C. 3612, and that is the result we desire here. Private litigants, particularly, should have the option of choosing local courts since they may be more convenient forums. In such instances, section 402 counsel fees ought to be available to them.

Section 402 uses the phrase "prevailing party" in defining who should recover counsel fees. That language is meant to be as broad as the phrase "aggrieved person" contained in section 401. Both should be liberally construed to effectuate the purpose of these sections: to achieve broad-scale compliance with voting proscriptions. "Prevailing party" would include an individual as well as an organizational plaintiff. It might be the party who originally brought the suit or it might be an intervenor. See *Thomas* v. *Honeybrook Mines, Inc.,* 428 F. 2d 981 (3rd Cir. 1970), *cert. denied* 401 U.S. 911 (1971). In bailout suits instituted by covered jurisdictions against the United States, it would also include a private person who intervened as a defendant or participated as a third-party plaintiff, to urge the district court not to allow the State or political subdivision to remove itself from coverage under the act.

Consequently to recover attorney's fees, it is not necessary that the "prevailing" party succeed in obtaining an injunction against an offending State or political subdivision. An intervenor in a bailout suit, for example, would "prevail" when the district court denied relief to the plaintiff government. Furthermore a litigant would "prevail" when the law suit causes the jurisdiction to alter practices which adversely affect voting rights even though the court might conclude that formal relief, such as an injunction of declaratory judgment, is unnecessary as a matter of equity.

Under a similar provision for attorney's fees in Title VII of the 1964 Civil Rights Act, the courts have allowed such awards in those circumstances. *Parham* v. *Southwestern Bell Telephone Co.,* 433 F. 2d 421 (8th Cir. 1970); *Brown* v. *Gaston County Dyeing Machine Co.,* 457 F. 2d 1377 (4th Cir.), *cert. denied* 409 U.S. 982 (1972). Similarly, if the litigation terminates in a consent decree, it would be appropriate to award counsel fees. *Aspira of New York, Inc.* v. *Board of Education of the City of New York,* 65 F.R.D. 541 (S.D.N.Y. 1975). And, of course, plaintiffs who bring so-called "test cases" would clearly be entitled to such fees. *Lea* v. *Cone Mills Corp.,* 438 F. 2d 86 (4th Cir. 1971); see also *Evers* v. *Dwyer,* 358 U.S. 202 (1958).

In appropriate circumstances, I should add, a court is also authorized to award counsel fees as a matter of interim relief pending the outcome of the case. The word "prevailing" does not require the entry of a final order before fees may be recovered. See *Bradley* v. *School Board of the City of Richmond,* 416 U.S. 696 (1974); *Mills* v. *Electric Auto-Lite Co.,* 396 U.S. 375 (1970).

In exceptional circumstances, the phrase "prevailing party" might also include a defendant. The standard for awarding counsel fees to a prevailing defendant, however, is not the same as for a prevailing plaintiff. If it were, the risk to the disadvantaged, minority litigant might be so great that it would discourage law suits to remove barriers to voting. In the Alyeska case, supra, the Supreme Court indicated that the liberal test for awarding fees announced in Newman against Piggie Park was intended to apply only "to the successful plaintiff."

Furthermore such defendant governmental units are much better able to bear the expenses of litigation. When they are required to pay counsel fees, they draw from the common treasury (including, incidentally taxes paid by the plaintiffs). See Bradley case, supra. Such resources are not available to minority litigants. Thus it is intended that a much more restricted test be applied when the "prevailing party" is a State or political subdivision, or its officials.

A court might award counsel fees to defendants on those rare occasions when they must "defend against unreasonable, frivolous, meritless or vexatious actions brought by either private parties or the Government." *United States Steel Corp.* v. *United States,* 385 F. Supp. 346, 348 (W.D.Pa. 1974). As long as the plaintiff has initiated the action "in good faith," however, counsel fees should not be awarded to a prevailing defendant. See *Richardson* v. *Hotel Corp. of America,* 332 F. Supp. 519 (E.D.La. 1971), aff'd without published opinion 468 F. 2d 951 (5th Cir. 1972).

Mr. Chairman, I therefore urge all my colleagues to vote in favor of H.R. 6219, and to reject all amendments which would weaken or dilute its provisions.

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

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

Mr. BUTLER. I thank the gentleman for yielding.

I regret I used my time up before I could yield to the gentleman.

I appreciate the gentleman's yielding to me as I do think it is important to advise that the Attorney General of the United States in a very learned letter of very recent origin, which inadvertently came into my hands, has stated that the effect of the Butler "bailout"—and I quote:

> does not legislatively negate the doctrine for Gaston County, but it does allow the jurisdiction to demonstrate its compliance with all of the goals of the act for a substantial period of time.

I mention this so that the gentleman will understand that my purpose is not to negate Gaston County, which I judge is the gentleman's only objection to the impossible bailout.

Mr. DRINAN. Would the gentleman agree that his amendment does in effect repeal not merely Gaston County against the United States but also Virginia against the United States, another Supreme Court decision?

Mr. BUTLER. If the gentleman will yield, it was a per curiam decision of the Supreme Court of the United States in Virginia against the United States which did not allow any covered State an opportunity to prove its way out from under the act. Because it was conclusively presumed that the literary test was used to discriminate against minorities.

Yes, it does overcome that by giving ourselves the opportunity to develop, to prove our way out of section 5, and protect the constitutionality of our legislation.

Mr. DRINAN. But would the gentleman be able to respond to the key factor in that particular decision, namely that for a number of years the particular State in question did in fact maintain its inferior schools and that the whole legislative history of the Voting Rights Act suggests and makes overwhelmingly clear that the purpose of this act was to give every citizen, regardless of his lack of training in literacy, an equal opportunity to vote. If blacks had had separate but equal, but truly unequal, opportunity, then they were simply not in a position to live up to the literacy test even if that is of a meaningless character? That is the basic constitutional thrust and, with all due deference, I have not heard the gentleman from Virginia speak to that.

Mr. BUTLER. One reason the gentleman from Massachusetts has not heard me speak to it is because I have not had the opportunity to speak to it but if the gentleman will yield, I would like to say the requirements in Virginia was not like the literacy test in other States. I men-

tion this because we have in the record no indication, and this has been affirmed many times, that there was discrimination in the application of even our modest literacy test, which has been since repealed. It did not require that the applicant read and write the Constitution or interpret portions of it. It required only that a prospective voter make application in his own handwriting on a form supplied by the registration officer. No evidence was presented to the district court in Virginia against the United States that such a test had been applied in a discriminatory manner during the 10 years preceding the filing of this action. All the evidence was to the contrary.

Even in 1961 the Court reported that Virginia unlike many Southern States did not practice discriminatory voting processes. The Attorney General of Virginia conducted an extensive factual investigation into the manned in which Virginia's test had been applied during the previous 10 years. That showed the test had no significant impact in disqualifying voters, black or white, in Virginia.

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

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

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

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

I am inclined to think the gentleman from Virginia misconstrues the Gaston decision of June 2, 1969, by the Supreme Court. This opinion explicitly disclaims any per se rule; it notes that the Court's decision below is premised not merely on Gaston County's maintenance of a dual system but on substantial evidence that the county deprived its black residents of equal educational opportunity, a fact which is turn deprived them of equal opportunity to pass the literacy test.

If the gentleman from Virginia wants to reverse this decision completely the burden is on him to prove the justice of a reversal of such a decision.

Mr. EDWARDS of California. Mr. Chairman, I yield 2 additional minutes to the gentleman from Massachusetts.

Mr. DRINAN. In conclusion, Mr. Chairman, I urge all my colleagues to vote for this monumental legislation, to vote in favor of H.R. 6219 and to reject all amendments which would weaken or dilute its provisions.

Mr. BUTLER. Mr. Chairman, I yield 10 minutes to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Mr. Chairman, the Voting Rights Act has served its purpose. The testimony before the subcommittee shows overwhelmingly that registration and voting by black Americans, and in particular in the covered States, has increased dramatically since the enactment of the Voting Rights Act. Strong indications of the change in the attitude of most citizens throughout our land is shown in the record.

Now, however, some fear and some reticence remains in certain areas that voting and registration may carry with the rights, some risk. That feeling is not limited to identifiable minority group members. Therefore, it could be argued that the Voting Rights Act need not be extended. I believe that the Voting Rights Act should be extended, but point out that the Voting Rights Act is not the only protection that is available, however. The poll tax, of course, has been done away with. The Civil Rights Act remedies are still available, and section 3 of the Votings Rights Act is already permanent protection.

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

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

There are amendments that we can find in the CONGRESSIONAL RECORD at page H4591 of May 21, 1975, that I will seek to gain the support of the membership on tomorrow which would make other modifications. One would have to do with the period of purity, as I call it, necessary to obtain a declaratory judgment on the part of the State to "bail out" from under the coverage of the Voting Rights Act.

Section 4 of the Voting Rights Act presently provides that a State may free itself from the special coverage of section 4 by filing a declaratory judgment in the U.S. District Court for the District of Columbia and proving that for the past 10 years the State had not used a test or device requirement to vote on the basis of race or color.

Hence, if a State transgresses the law and uses a test or device with the prohibited effect, it must wait 10 years before it can successfully escape the onerous special provisions of the Voting Rights Act.

Historically, this "period of purity" was originally set at 5 years in the Voting Rights Act of 1965. When the Voting Rights Act was amended in 1970, the proponents sought to extend it by changing the period of purity from 5 years to 10 years. This had the effect of freezing the States then under the act because of transgressions in 1964.

In 1975, the Voting Rights Act will again undoubtedly be extended for 5 or 10 years. The proposed method of extension again lengthens the period of purity. While this will freeze the States presently covered by retaining 1964 transgressions for another 5 or 10 years, it has the disadvantageous repercussion of punishing a future transgression for 15 or 20 long years.

For example, if Virginia were to employ a test or device in derogation of the act in 1984, the special coverage provisitons would apply until the turn of the century, as the bill is now worded.

This amendment I will propose seeks to accomplish the goal of extension, while at the same time retaining a reasonable "period of purity" in order that future transgressions will not carry an inordinately long penalty.

A second thing that is needed by way of modification is to allow the States to litigate with regard to the declaratory judgments we have been discussing in the Federal district court that is local to that State, rather than everyone having to come to the U.S. District Court for the District of Columbia. I think it is quite apparent that the District of Columbia is not the most convenient forum for these matters. The States that are covered or that will be covered under the language of the act as it now stands would have to come from great distances to litigate here in the U.S. District Court for the District of Columbia; bring witnesses and everything that is necessary to the decision of the declaratory judgment action, rather than being able to go into the U.S. district court for the district involved in that State.

I would point out one more modification that is very necessary, I think, which has been discussed here already, in the opposite direction, by our colleague from Massachusetts (Mr. DRINAN). That is the matter of an aggrieved person being able to bring an action, in addition to the Attorney General, to obtain the extraordinary relief afforded under the act. Assuming that the committee language is retained in the bill, there is the need, I believe, to strike this particular language which says that an aggrieved person can bring this action.

We should notice, first of all, that these are extraordinary remedies that are provided at present only to the Federal Government to encroach upon the proper constitutional area of the States which are covered under the act. The reason for that and the justification for that is the past malpractices of the States which have, for this period of time since 1965, been denied their normal constitutional function. Now, it is being suggested, in the language of the bill as it comes to the House floor, that any aggrieved person should be able to bring an action which could bring about the application of these extraordinary remedies.

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

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

Mr. DRINAN. Mr. Chairman, would the gentleman be opposed to including the provisions which are presently included in the Civil Rights Act of 1964, and also in the Housing Act of the Congress in title II and title VIII of the 1964 act, and title VIII of the 1968 act?

The precise language that we now incorporate in the Voting Rights Act was included in those acts. Would the gentleman, therefore, be suggesting that we are to wipe out all the dual enforcement procedures in virtually all previous civil rights bills?

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

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

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

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

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

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

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

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

Mr. Chairman, I want to say that I was a member of the subcommittee, and I want to commend the chairman of the full committee, the gentleman from New Jersey (Mr. RODINO). I want to particularly commend the gentleman of the subcommittee, the gentleman from California (Mr. EDWARDS) for giving us all an opportunity to present our points of view and to present whatever witnesses we had so that we could make sure that the Voting Rights Act of 1975 was an improvement over the Voting Rights Act of 1965 and 1970.

Mr. Chairman, I particularly appreciate the opportunity, because I became a member of the Committee on the Judiciary because I felt that this can be the most important legislation of this session of Congress, in terms of seeing that everyone understands that the spirit of the 1960's which led to the Voting Rights Act of 1965 is still alive in the 1970's, and in terms of seeing to it that everyone understands that we mean to insure that there will be a full opportunity for everyone in this country to vote.

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

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

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

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

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

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

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

I want to point out to the Members that title II and title III, as already enacted, are really very limited provisions which admittedly do not cover all of the areas that should be covered, but merely try to establish the principle that the language minorities are entitled to the same protection that presently exists in the Voting Rights Act for other groups. The reason that we specifically refer to the protections of the 14th amendment was because of the fact that the Spanish-speaking groups may be of one racial group or another. They might be white; they might be black; they might be Indian; or they might be a mixture of two or three different groups. In order to insure that all of them would be covered, whatever their background be, we provided that the protections of the act shall include not only the protections guaranteed by the 15th amendment, but the protections guaranteed by the 14th amendment as well.

We sought to maintain precisely the same structure that presently exists in the act, and that is the reason that in title II the trigger mechanism that is retained is identical to the mechanism in the 1965 act. That is the principle that the jurisdictions to be covered will be those where less than 50 percent of the persons of voting age were registered to vote or actually voted.

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

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

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

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

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

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

It is clear that under this provision in title II, since Alaska has already been bailed out, it would be possible for the Alaskans to bail out again if this provision were to be enacted.

Mr. BUTLER. Mr. Chairman, if the gentleman will yield further, along these lines, it is perfectly clear that the extension to the Alaska Natives was not based on research in that area, and indeed, Mr. Pottinger, the Assistant Attorney General, wrote us to this effect on May 13:

> This is not to say that any evidence has been presented to us of a need for expansion of the coverage of the Act to Alaskan natives. We have received no specific evidence regarding them.

The gentleman is familiar with that statement from the Attorney General; is he not?

Mr. BADILLO. That is right.

Mr. BUTLER. I thank the gentleman.

Mr. BADILLO. I do want to point out, as I said earlier, that the Alaskans will be covered in any event under the 15th amendment. The new problems with respect to Alaskans are not under title II because the Alaskans went through that already in 1965 and 1970. The new problems arise with regard to title III, however, on the question of a bilingual ballot, and this problem arises in view of the fact that certain of the languages that are spoken in Alaska are not written languages, and therefore a difficulty arises as to that.

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

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

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

Mr. BADILLO. That is right.

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

The CHAIRMAN. The time of the gentleman has expired.

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

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

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

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

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

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

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

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

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

Mr. WIGGINS. Mr. Chairman, title II requires that the ballots in an appropriate jurisdiction be printed in the language of the minority; does it not?

Mr. BADILLO. That is right.

Mr. WIGGINS. The gentleman has spoken in terms of a bilingual ballot, but you really must assume the possibility of a trilingual ballot, or a multilingual ballot; do you not?

Mr. BADILLO. It is possible, yes.

Mr. WIGGINS. Let us talk about Indians. Would the act require the ballot to be printed in the dialect of the Indian?

Mr. BADILLO. If the other conditions were met, yes.

Mr. WIGGINS. If the gentleman will yield further, how many dialects are there of Indians?

Mr. BADILLO. I have no idea.

Mr. WIGGINS. If I told the gentleman that there are over 160, would that strike the gentleman as being wrong?

Mr. BADILLO. No, but I would doubt that there would be a single jurisdiction where there would be more than 5 percent of Indians who would be speaking the 160 languages. We know, of course, the reality is that Indian tribes like all other people live together, and generally a tribe would be living within one jurisdiction, so a tribe would ordinarily speak one dialect.

Mr. Chairman, the enactment of H.R. 6219 could represent a further advancement in civil rights by continuing to provide needed protections, previously covered jurisdictions, and by extending the vital protections of the Voting Rights Act to Hispanic Americans and members of other language minority groups.

Specifically, the bill would add a subsection to section 4 of the act. The new subsection (f):

First, sets forth congressional findings relative to voting discrimination against citizens of language minorities who suffer from illiteracy in the English language because of unequal educational opportunities. This subsection further declares the necessity to eliminate such discrimination by prohibiting English-only elections, and by prescribing other remedial devices.

Second, prohibits States and political subdivisions from enacting any voting qualification, or prerequisite to voting, or standard, practice or procedure to deny or abridge the right to vote of any citizen because he is a member of a language minority group.

Third, expands the definition of the phrase "test or device." A jurisdiction is determined to employ a test or device if more than 5 percent of the citizens of voting age residing in the jurisdiction are determined by the Director of the Census to be members of a single language minority; and the jurisdiction, in the 1972 Presidential election, provided any registration or voting notices, forms, instructions, assistance, or other materials relating to the electoral process, including ballots, only in the English language.

Fourth, requires that whenever any jurisdiction subject to this section provides any registration or voting materials—as defined above—it shall provide them in the language of the applicable minority group as well as in the English language.

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

Title III of H.R. 6219 would amend the Voting Rights Act of 1965 to ban the use of English-only election and registration materials and assistance until 1985 in those States and political subdivisions not covered by the special provisions of the act, but which have a substantial concentration of language minorities and where the illiteracy rate in English of such persons is above the nationwide illiteracy rate in English for all persons of voting age.

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

The less stringent provisions of title III are based largely on unequal educational opportunities. The evidence indicates a close and direct correlation between high illiteracy among these groups and low voter participation. For example, the illiteracy rate among persons of Spanish heritage is 18.9 percent, among

Chinese is 16.2 percent and among American Indians is 15.5 percent, compared to a nationwide illiteracy rate of only 4.5 percent for Anglos. In the 1972 Presidential election 73.4 percent of Anglos were registered to vote compared to 44.4 percent of persons of Spanish origin.

The high illiteracy rate among these language minorities is not coincidence. It is the result of the failure of State and local officials to afford equal educational opportunities to members of language minority groups. While title III will not correct the deficiencies of prior educational disparities, although that may be a necessary concomitant, it will permit persons disadvantaged by such inequality to vote now.

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

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

The CHAIRMAN. The time of the gentleman has expired.

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

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

The CHAIRMAN. Evidently a quorum is not present.

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

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN pro tempore (Mr. STUDDS). One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

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

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

This is critically important legislation.

Now, given the importance of this bill, it is important to review its efficacy and the rationality of the procedures adopted in the act to achieve the benefits intended.

It is my contention, Mr. Chairman and members of the committee, that the triggering mechanism under the act is, in the light of present day circumstances, irrational and ought to be improved. There will come a time tomorrow when I shall offer a substitute which is designed to improve this act, to make it a better act, to make it more rational more logical, in light of today's circumstances.

What is wrong with the trigger which this Congress imposed upon the country in 1965? Let me give the Members an answer to that question in the following way: The whole theory of the Voting Rights Act is that the right to vote should not be denied or abridged by reason of racial discrimination. The emphasis is on the right to vote.

We were mindful in 1965 that there were many techniques for denying and abridging the right to vote and a case-by-case remedy was totally undesirable and unrealistic.

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

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

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

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

Second, it modifies the triggering mechanism so that a jurisdiction would be covered if two things occurred: That there were 5 percent of more black citizens or brown citizens within the jurisdiction at the time of the most recent general election. Those are the only two covered minorities in my substitute. Indians are not; Asian Americans are not; Alaskan Natives are not; only blacks and browns.

If 5 percent of blacks or browns are within a jurisdiction at the time of the most recent general election, and if those designated minorities fail to vote—not historically, but in the most recent general Federal election—at a rate of 50 percent or more, then that is a sufficiently suspicious circumstance to cause the Congress of the United States to require preclearance of that jurisdiction's voting practices to insure the absence of discrimination.

Clearly such an approach is much more rational than the current trigger, Mr. Chairman. The Members understand that in the year 1976 if a jurisdiction in Georgia, for example, had every single black vote, every one, it would still remain covered under the act because of something that happened in 1964. What is the common sense of that?

I would suggest to the Members that there is no rationality in that kind of trigger.

Let us look at the other side of this coin. Let us look at the jurisdiction of Chicago, for example. If in fact, in 1976 no blacks voted in Chicago, none, that jurisdiction would not be covered because the present act looks to what happened either in 1964, 1968, or 1972.

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

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

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

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

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

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

their voting procedure. None at all. They are locked in as a result of what happened in 1964.

Why in the world would a jurisdiction endeavor to improve its voting laws when there was no way that it could benefit by reason of that improvement by escaping the burdens of the act.

If we adopt my substitute, on the other hand, there is a positive incentive for dominant white majorities to get the blacks out to vote, because to do so they will get out from under the act. And, after all, that is what this act is all about: to get those minorities out to vote.

There have been several objections that I have heard to my substitute. One is as to its cost. I have had several discussions with the Bureau of Census on this problem. The problem of cost, of course, pervades not only my substitute but the committee bill, as well. It is a troublesome item. The difficulty is that the Bureau of Census is unaccustomed to dealing with probabilities. And yet for purposes of this act, the existence of a 50-percent turnout or the existence of a 5-percent minority is not the ultimate fact to be proved. Those facts merely trigger a rebuttable presumption. That is all. A high degree of precision with respect to whether in fact there is exactly 5 percent or exactly 50 percent is not necessary.

Accordingly, the Bureau of the Census is instructed, by reason of the legislative history which I shall include in this bill, to simply make the determinations required for it on the basis of probability; that is, whether it is more probable than not that there is a 5-percent minority population and that 50 percent of that minority voted in the most recent general election.

There are many lawyers in this House, and many are listening to me right now. We are accustomed to dealing in probabilities. We are accustomed to establishing and accepting as true facts which are demonstrated simply by a preponderance of the evidence, and clearly that standard is sufficient for purposes of triggering a rebuttable presumption.

The Bureau of the Census, on the other hand, would like to make the determinations under this act with a 95-percent degree of certainty. That is a very expensive process, but it is not necessary. They can determine the existence of the 5-percent minority on the basis of the statistical data in their computer based upon the 1971 census data.

As far as I am concerned, that is adequate for the purposes required under this act, and it is a very inexpensive procedure. They have talked in terms of hundreds of millions of dollars. I want to suggest to the Members that if the Bureau of the Census cannot make the determinations required hereunder on the basis of probability, that is, more probable than not, for less than $10 million a year, then our appropriation committee ought to look very carefully and very skeptically at their budget proposals because they are injecting a greater degree of certainty than we require under this act.

I want to make clear with respect to the legislative history—and I shall, by insertion in the RECORD, show the constitutionality of the proposal which I have advanced—that it is important under the standard Katzenbach against South Carolina that this trigger mechanism which I have proposed be rational. I am prepared to demonstrate and to argue here now that it is more rational than the trigger mechanism invoked under the bill because it deals with voter performance by the very minoriy to be affected rather than the performance of everyone.

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

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

Mr. DRINAN. Mr. Chairman, the gentleman indicated he would cover the legislative history.

Would the gentleman please indicate any support for his proposition that is contained in the 1,300 pages of hearings conducted by the subcommittee?

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

Mr. DRINAN. No, I am sorry. Does the gentleman seek to support his substitute by anything that is in the record of the hearings that the subcommittee conducted over many, many weeks, a record that now totals more than 1,300 pages?

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

How in the world can the gentleman from Massachusetts (Mr. DRINAN) whose record as a civil libertarian is richly deserved—and I commend him for it—but how in the world can he seek to impose a trigger on this country which does not hit discrimination in the North, yet institutionalizes a trigger mechanism in the South? I say to the gentleman that it does him no credit to perpetuate it.

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

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

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

Mr. WIGGINS. I would suggest to the gentleman that he simply open his eyes to reality, because it does exist elsewhere in the country.

The CHAIRMAN. The time of the gentleman from California (Mr. WIGGINS) has expired.

Mr. BUTLER. Mr. Chairman, I yield 2 additional minutes to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. So long as blacks in the South are refused or denied the right to vote, they will be covered, but the same law should apply elsewhere. If blacks in your district do not vote in sufficient numbers then your district ought to be covered. I want you to know that my district will be covered under my alternative and I will be working hard to see that the browns in my district get out to vote in order to avoid the burden of preclearance.

But is not that what the act is all about? Of course it is.

Members of the committee, if you want to support a strong civil rights bill, a strong voting rights bill, then you will support my substitute. If you want to interject rationality into the trigger then you will support my substitute. If you simply want to be on the side of common sense in imposing this preclearance mechanism, you will support my substitute.

Mr. Chairman, let me conclude this way: I see many Members on the floor from various jurisdictions. I see the gentleman from Florida (Mr. BENNETT) here. Let me say to that gentleman that any act of Congress that prevents your State legislature from amending its own constitution without trotting down here to the Attorney General for his advance approval, is a most terrible burden upon the Federal system and ought to be tolerated only for the most compelling of reasons.

Well, if we are going to do that, and we will under this act, then, by George, it ought to be done on a rational basis. I urge all of the Members to support my substitute.

Mr. Chairman, to improve the Voting Rights Act of 1965, I have offered a substitute to H.R. 6219, a bill to extend the Voting Rights Act. My substitute, which has been introduced in H.R. 6985, provides a progressive new approach to the voting rights problem. The heart of the substitute is found in section 3 thereof, where the trigger mechanism of section 4(b) of the current act is revamped effective February 6, 1977.

Because this trigger was not the subject of scrutiny during the hearings, it is important to establish its constitutionality and rationality on the record. This is particularly necessary because of the misconception voiced by some that to be constitutional, a trigger must be dependent upon the presence of a voting test or device.

Any inquiry into the constitutionality of a trigger mechanism must begin with the holding in *South Carolina* v. *Katzenbach,* 383 U.S. 301, 330 (1966) that a triggering device must be rational both in theory and in practice. The legal perspective from which a triggering device must be reviewed for rationality was set forth many years ago by then Chief Justice Marshall when he said in *Mc-*

Culloch v. *Maryland*, 17 U.S. (4 Wheat.) 316, 421 (1819):

> Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional.

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

The traditional provisions of the Constitution supporting the trigger of the Voting Rights Act are sections 1 and 2 of the 15th amendment. Section 1 prohibits the United States or any State from denying or abridging the right to vote of any citizens of the United States on account of race, color, or previous condition of servitude. Section 2 authorizes Congress to enforce section 1 by appropriate legislation. Another basis of constitutional power to support a trigger lies in sections 1 and 5 of the 14th amendment. Section 1 provides, in part, that no State shall deny to any person within its jurisdiction equal protection of the laws. Section 5 grants Congress the power to enforce section 1, inter alia, by appropriate legislation. Hence these are the sources of congressional power on which the trigger is based; the extent to which the trigger is plainly adapted to meet the purposes of these sources of power is determinative of its rationality and constitutionality.

In evaluating what the purposes of the 14th and 15th amendments are, Congress is not limited to prohibiting State and local laws and practices that would themselves be unconstitutional; rather, Congress may enact legislation appropriate to enforce the 14th and 15th amendments similar to the broad power of the necessary and proper clause, article I, section 8, clause 18. *Katzenbach* v. *Morgan*, 384 U.S. 641, 648–51 (1966).

Also, it is well settled that an appropriate solution to a problem need not be the best solution; Congress can, consistent with the letter and spirit of the Constitution, enact a statute that "is not invalid under the Constitution because it might have gone further than it did." Id. at 657.

When these principles of constitutional law are applied to the trigger in section 3(a) of the substitute, the conclusion that the trigger is constitutional is beyond doubt. The trigger encompasses jurisdictions in which black and brown voters represent at least 5 percent of the voting age population and in which less than 50 percent of the blacks or browns voted. The implication of this circumstance is that sufficient suspicion of discrimination exists to invoke the prophylactic remedies of the Voting Rights Act to both cure and prevent violations of the 14th and 15th amendments.

The rationality of this "suspicion" can be demonstrated in the following way: If available evidence revealed that all eligible minority citizens voted in a given election, the reasonableness of a legislative judgment that discriminatory practices did not exist in that jurisdiction could hardly be questioned. If, on the other hand, available evidence revealed that none voted, the reasonableness of a contrary legislative judgment would similarly be beyond challenge. Between these two poles there is room for legislative discretion.

The requirement of at least a 50-percent minority turnout represents a rational legislative conclusion that, if such a standard is not achieved in a given jurisdiction, it is more probable than not that discriminatory laws or practices may have caused the poor voting participation by such minorities so as to justify a review of the voting laws or practices of that jurisdiction by the U.S. Attorney General.

The statute is saved from being unconstitutionally overbroad by providing that a covered jurisdiction which does not discriminate in fact can "bail out" by filing an action for declaratory judgment against the United States in the U.S. District Court for the District of Columbia. *Cf. South Carolina* v. *Katzenbach*, (383 U.S. 301, 331 (1966).)

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

The traditional trigger in the existing act was challenged in *South Carolina* v. *Katzenbach* (383 U.S. 301, 331 (1966)). That trigger was activated when, in addition to using a "test or device," a jurisdiction had less than 50 percent of its voting age population registered and voting. The trigger was sustained because Congress had reliable evidence of actual voting discrimination in a great majority of the jurisdictions affected by the act, id. at 329, and because a low voter turnout was evidence of widespread disenfranchisement. Id. at 330.

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

Thus the coverage under the substitute trigger will generally be at least as broad as the trigger held by the court to be constitutional, but will not be overbroad because of a meaningful bailout device. While it is true that the trigger may not apply to some jurisdictions where the instant trigger applies because minorities vote over 50 percent but Anglos vote under 50 percent, this defect is far less egregious than the underinclusiveness of the trigger in the present act which would not apply where minorities vote 10 percent as long as Anglos voted at 80 or 90 percent to pull the average above 50 percent.

The substitute trigger may not apply in a few jurisdictions covered under the present trigger because of the 5-percent requirement. But Congress can rationally draw a de minimis line to measure the magnitude of the voting discrimination taking place. This does not deny those blacks and browns living in areas of dispersed minority concentration equal protection of the laws merely because Congress sees fit to offer others affirmative remedies. The Court in *Katzenbach* v. *Morgan*, 384 U.S. 641 (1965) stated the rationale when it said at 657:

> In deciding the constitutional propriety of the limitations in such a reform measure we are guided by the familiar principles that a statute is not invalid under the Constitution because it might have gone farther than it did. *Roschen* v. *Ward*, 279 U.S. 337, 339, that a legislature need not strike at all evils at the same time, *Semler* v. *Dental Examiners*, 294 U.S. 608, 610, and that reform may take one step at a time addressing itself to the phase of the problem which seems most acute to the legislative mind, *Williamson* v. *Lee Optical Co.*, 348 U.S. 483, 489."

The above reasoning also supports the limitation of the trigger to Negroes and persons of Spanish heritage. Moreover, the rationality of the black/brown trigger must be tested against the sweeping preclearance remedies it invokes. Preclearance of State laws by the U.S. Attorney General is an extraordinary remedy posing severe strains upon our federal system. It should be tolerated only in response to the most compelling evidence that discrimination in voting can be ended by no less burdensome procedures. Such evidence is clear with respect to Negroes and those of Spanish heritage. A compelling case has not been made with respect to others. In confining the preclearance remedies to those jurisdictions where a suspicion of voter discrimination against blacks or browns can logically be drawn, other persons subject to discrimination are not neglected under the legislation. Relief under section 3 remains available.

Congress can and should differentiate in fashioning relief to the magnitude and pervasiveness of the wrong which has been demonstrated by the record before it. Testimony in the record has revealed that persons of Spanish heritage do suffer discrimination. Testimony in 1965 has documented the discrimination felt by Negroes. The record for other groups failed to indicate that their right to vote was being denied or abridged in violation of the 14th or 15th amendments.[2]

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[1] *See South Carolina* v. *Katzenbach*, 383 U.S. 301, 326 (1966).

[2] *The Hearings on H.R. 939 before the Subcommittee on Civil and Constitution Rights of the House Committee on the Judiciary*, 94th Cong. 1st Sess., Ser 1 (1975) [hereinafter referred to as "Hearings"], revealed little evidence of discrimination against other groups. Of the 171 references to various minority groups in the *Hearings*, 135 were to various Spanish groups, 16 refer-

Thus there is clearly a perceivable basis from which Congress can trigger relief only from the voting data of Negroes and persons of Spanish heritage. It is to be noted that while relief is triggered on a limited basis, relief is extended to all citizens whose right to vote is denied or abridged on account of race, color, or national origin. This broad remedy is defensible as a matter of policy and law; voting discrimination of any kind cannot be tolerated, once it is uncovered, no matter who the victim of the discrimination may be.

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

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

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

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

Courts and lawyers, unlike statisticians, are accustomed to accepting the truth of facts which are often controverted. The standards by which a fact is accepted as true in civil litigation is normally that of a preponderance of the evidence—that is to say, the weight of credible evidence favors the proposition to be proved. A preponderance of the evidence does not require 95 percent certainty—a standard customarily employed by the Census Bureau—nor even 75 percent certainty. It merely requires the fair conclusion that the fact to be proved is more probably true than not based upon the credible evidence bearing on this issue.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. BUTLER. Mr. Chairman, I would ask the gentleman from California are any of the jurisdictions who have favored us with their views presently covered by the Voting Rights Act?

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

Mr. BUTLER. Will any of these jurisdictions now be covered under titles II and III?

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ences were made to American Indian groups, one set of letters was submitted concerning Asian Americans at 1602–03 and no evidence was submitted concerning Alaskan Natives. When asked whether there were substantial groups of Asian Americans that really should have protection of the Voting Rights Act, J. Stanley Pottinger, Assistant Attorney General, Department of Justice, commented at page 767 of the *Hearings*, "We really don't know the answer to that."

Mr. EDWARDS of California. No, I believe not.

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

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

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

Mr. CONYERS. Mr. Chairman, I was intrigued by the comments of the gentleman from California (Mr. WIGGINS) who pointed out to another colleague from Florida that his Legislature would have to come trotting hat in hand to the Attorney General here in Washington to make any changes under this proposal.

But under this proposed extension it is no different from that which has existed for lo these many years; is that not correct?

Mr. EDWARDS of California. That is correct.

Mr. CONYERS. That requirement exists now; it has existed since the inception of the Voter Rights Act; and it would in no way be changed.

The CHAIRMAN. The time of the gentleman has expired.

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

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

Mr. ROYBAL. Mr. Chairman, our debate today focuses on a fundamental issue of justice—the right of a people to cast a meaningful and effective vote. The preservation of that right goes to the very heart of our constitutional system. As the courts have affirmed repeatedly:

> Any discrimination in determining who may participate in political affairs . . . undermines the legitimacy of a representative government.

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

Evidence has been compiled showing failure by officials to locate voters' names on precinct lists, inaccessible or hostile voting locations and lack of adequate voting facilities. Other abuses, especially rampant in Texas, involve annexation of only Anglo areas but not contiguous Spanish speaking neighborhoods and shifts from single-member to at-large elections.

Aggravating these voting obstacles has been the almost total absence of bilingual registrars and election officials in areas having a substantial percentage of Spanish speaking and other language minority voters.

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

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

It is this experience that imbues our present deliberations with so much urgency and constitutional importance. We are engaged today in a struggle for civil rights. Passage of the Voting Rights Amendments of 1975 will mark a significant milestone in the civil rights movement. It will provide an historic opportunity to affirm our commitment to our democratic and egalitarian ideals. It is for this reason that we as representatives of the people must base our vote not on political self-interest but on the necessity to secure the right to vote for language minority citizens as afforded to other Americans.

Some have argued that H.R. 6219, in its present form, is too radical a change and that Congress really has no obligation to take such a formidable step even if sufficient evidence exists. I strongly disagree with this line of reasoning, for it ignores the spirit and language of the 14th and 15th amendments which grants Congress the "power to enforce by appropriate legislation." This power imposes an affirmative duty on Congress to carry out the principles and directives expressed in these two amendments. For Congress to shun that responsibility would make a mockery of our basic freedoms and protections. We cannot allow ourselves to slip into a do-nothing philosophy, into a governmental approach built on benign neglect and indifference.

Others object that they have seen "no evidence of any discrimination to prevent members of language minority groups from registering or voting." It is my contention that titles II and III of the 1975 act, which provide voting protection to language minorities, do offer a rational and legitimate approach based on extensive evidence which I and other witnesses presented during House and Senate hearings. Further, both titles satisfy the constitutional standard of legislative appropriateness enunciated by the Federal courts in recent voting decisions.

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

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

In one predominantly rural area, the county clerk instructed an election official, who had Spanish-speaking skills, not to speak Spanish at the polling facility because it was against the law to do so.

The intentional failure to provide bilingual assistance has serious repercussions in voter turnout among Spanish-speaking citizens. It creates a negative and hostile setting—one of embarrassment and intimidation. We heard of incidents where Anglo officials denied Spanish-speaking persons an opportunity to vote, supposedly because their names did not appear on the list.

Subsequent discovery, however, revealed that their names were listed. We were also confronted with incidents involving threats by election officials. In one rural community, a Mexican American voter was told she could not vote unless she removed her farmworker button. The threat was clearly intended to intimidate, for the election did not involve any farmworker issue nor was there any evidence that the woman attempted to campaign or influence anyone's vote.

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

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

Some of the worst voting practices have involved statewide and local gerrymandering schemes which have been

pro-incumbent even though it meant diluting the vote and level of representation for Mexican Americans.

In Texas, we have documented a history of voting obstacles instigated by State as well as local action to deny and abridge the right to vote of Mexican Americans and black Americans. The House Judiciary report concludes that—

Election law changes which dilute minority political power in Texas are widespread in the wake of recent emergence of minority attempts to exercise the right to vote.

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

The goal of protecting the voting rights of non-English speaking racial minorities is legitimate under the fifteenth amendment. The evidence is sufficient to support a legislative determination of need and to support the means chosen for protecting the right to vote.

The focus on English-only elections under title III is extremely important. Title III is directed exclusively to voting abuses relating to language barriers and perpetuated by inequities in our educational system. The conduct of an English-only election in areas with a substantial percentage of non-English speaking voters acts as a prerequisite, as a prior condition, to exercising the right to vote. It is beyond a doubt a "test or device" which discriminates against Spanish speaking and other language minority voters. This concept is not new; in fact, it simply affirms legislatively a growing number of recent Federal court decisions requiring bilingual elections in Spanish speaking communities.

It has been documented that English literacy and language requirements were instituted to discriminate against certain racial and ethnic groups. In California, both Asian and Mexican Americans have borne the brunt of this exclusion not only in the classroom but at the voting booth as well. The point is that there is a profound connection between voting and educational discrimination. The Supreme Court in Gaston County against United States recognized this relation between the denial of equal education and the validity of literacy or language tests.

Further, Federal courts have found widespread isolation and segregation of Mexican American students in the Southwest. And recently in Lau against Nichols, the Supreme Court spoke directly to the issue of bilingual education and the need for school districts to develop meaningful programs for non-English-speaking children.

The overall effect of this lack of educational opportunity, of the absence of bilingual voting assistance and of the systematic attempt to deny language minority citizens the right to vote has been low registration and voting participation. As long as Spanish-speaking and other language minorities continue to receive inferior and discriminatory education, there is a need for bilingual elections and assistance.

It is the purpose of H.R. 6219 to assure the right to vote to these citizens now, consistent with our constitutional commitments. I urge your strong support of this historic piece of legislation.

Mr. BUTLER. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Chairman, I would like to address a question to the gentleman from California (Mr. ROYBAL).

I would like to ask the gentleman if this bill is passed and if the city and county of San Francisco had 4 percent Chinese, 2 percent Japanese, 6 percent Filipino, and 10 percent Spanish heritage population in 1972, in what language will the ballot distributed in the city and county of San Francisco be printed?

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

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

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

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

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

Mr. ROYBAL. No; that is not correct, but it is one of the ultimate results of equal registration and voting rights and people exercising their right of franchise in an understandable manner. What this definitely does is to provide an informed electorate, and this is something that is very much needed in this Nation.

Mr. WIGGINS. I get the clear impression that the result of the election of minorities to public office is an objective which the gentleman desires to achieve, but the gentleman may well be eroding the constitutionality of this legislation by taking such a position.

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

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

Amendments adopted in 1970, and the bill before use now, carefully prevent these same Southern States from reasserting the authority over the voting rights of their citizens which other States exercise. Justification for such a massive assault upon the structure of the Federal system and the Republican form of government guaranteed to each State has been pegged to the enforcement power of Congress under section 2 of the 15th amendment. Continued congressional reliance upon this power is, of course, dependent upon our good-faith purpose of assuring the rights of citizens to vote without discrimination, and not peripheral benefits unconnected to the franchise, however laudable these benefits may seem to some.

It has been asserted in the strongest terms by partisans of the committee bill that it is essential to keep the Southern jurisdictions under the coverage of the act beyond the 1980 census and the redistricting processes which will presumptively follow in 1981. The openly stated purpose is to subject the redistricting plans in these Southern States to U.S. Attorney General preclearance.

Although seldom argued for the record, it is clear beyond doubt that the objective of Federal preclearance of redistricting plans in 1981 will be the rejection of those plans which do not carve out "black districts" so as to enhance the likelihood of the election of a representative number of black legislators.

I do not intend to argue the merits or demerits of racially motivated redistricting plans whether designed to insure the election or defeat of a black or white candidate. I do contend, however, that such a purpose is beyond the reach of the 15th amendment and thus beyond the power of Congress to enforce by appropriate legislation. Stated another way, legislation with such a purpose is not appropriate to enforce the guarantees of the 15th amendment, and is therefore beyond the constitutional authority of Congress to enact under section 2 of that amendment.

By its terms, the 15th amendment is concerned with voting. Redistricting, in a constitutional sense, seeks to distribute the representatives to be elected among geographical districts of substantially equal population. Unequal population in legislative districts dilutes the voting power of some citizens, and enhances the power of others, in contravention of the equal protection clause of the 14th amendment to the Constitution. If legislative districts were gerrymandered in such a way as to dilute the voting power of blacks or other racial minorities, I

would have no hesitancy in finding authority under the 15th amendment as well to correct the constitutional wrong. But unequal voting power is not the wrong which proponents of the current bill seek to remedy. Their primary concern is no longer that blacks have a right to vote free of discrimination, nor that their votes be accorded a weight equal to that of white voters. The desire for 1981 Federal preclearance of redistricting plans reflects a concern over who blacks vote for.

To my knowledge, the U.S. Supreme Court has never held that the Constitution requires the drawing of district boundaries so as to enhance the election opportunities of minority candidates. Perhaps Congress is not limited to constitutional minimums in enforcing voting rights, but it is to extend the rationale of Katzenbach against Morgan beyond its proper reach to conclude that congressional authority to enforce the 15th amendment can confer political benefits upon candidates unrelated to their constituents' right to vote for or against them.

Arguments which seek to justify the 10-year extension of the act so as to submit Southern State redistricting plans to Federal preclearance in 1981 have no proper place in our legislative history. Indeed the making of such arguments erodes the constitutional underpinnings of section 5 of the act and places any extension thereof in some legal jeopardy.

Mr. EDWARDS of California. Mr. Chairman, I yield 7 minutes to the gentlewoman from Texas (Miss JORDAN).

Miss JORDAN. Mr. Chairman, we have been talking about the extension and expansion of the Voting Rights Act for some time now. We have recounted the history of this legislation, the bullets, the blood, the tear gas, the billy clubs. We have done that. We have talked about the basic purpose of the act, to guarantee to minority citizens in this country the right to have the free and unfettered access to the polls.

We were told by the gentleman from California that he will offer a substitute because the historical basis for the legislation now before us no longer really exists and that he is going to offer us a much more sensible rationale. If the gentleman would answer this question for me, I would like to please understand how we reach the problem of districts which switch from single to at large?

School boards which have been abolished or reduced in order to prevent minority membership on the board; redistricting legislation which focuses on multimember districts; polling places removed without notice; annexation by cities and counties in an effort to delute minority votes; that is what is taking place.

Let me anticipate the answer of the gentleman from California (Mr. WIGGINS) and say that under the substitute of the gentleman from California, for 2 years these practices could have been in existence, but could not have been addressed, since the only way to trigger the act under the gentleman's provision is for less than 50 percent of the blacks or the browns in a given district to vote, provided they number 5 percent.

So how are they to reach these kinds of abuses? Is the gentleman going to ask them, "Why don't you wait and have a low voter turnout the next time we have a Federal election, so that we may invoke the provisions of the Voting Rights Act?"

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

Miss JORDAN. I yield to the gentleman from California.

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

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

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

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

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

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

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

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

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

Mr. Chairman, one more thing before I yield to the gentleman from Michigan (Mr. CONYERS). We have heard Member after Member come to the well and say the States would have to go hat-in-hand to the Attorney General.

My friends, the only thing a jurisdiction has to do in order to satisfy the preclearance requirement is to put that change in an envelope, put a 10-cent stamp on it and send it to the Attorney General of the United States. It is not a matter of coming hat-in-hand and absolutely being cowered by the Federal officials.

Mr. Chairman, I yield to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, might I associate myself with my colleague's remarks. I think she has supplemented these issues in a very important way; but I would like to ask if the gentlewoman heard the colloquy between the gentleman from California (Mr. ROYBAL) and the gentleman from California (Mr. WIGGINS), in which the gentleman from California (Mr. WIGGINS) gave one of his very elaborate hypotheses, a hypothetical example of whether the Voting Rights Act would pick up language minority groups.

As I remember that hypothetical example, he eliminated the fact that whether or not there was less than a 50-percent registration or voter turnout in the 1972 election on which that hypothesis must necessarily turn.

Did the gentlewoman recall that?

Miss JORDAN. I did recall that. I did hear that.

Mr. CONYERS. He stated that the gentleman from California was in error with such finality that I had to check myself to make sure if he understood the law correctly. He pronounced that the gentleman was wrong, but I think if the gentleman from California (Mr. WIGGINS) will check carefully, he will see that it takes both of the circumstances, so that, in fact, there is no such place in the United States of America that would meet the test of that hypothetical situation.

Miss JORDAN. I thank the gentleman for his comment.

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

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

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

I assure the gentleman that the city and county of San Francisco would have to print ballots in multiple languages if it failed to turn out 50 percent in 1972.

The CHAIRMAN pro tempore. The time of the gentlewoman from Texas has expired.

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

Miss JORDAN. Mr. Chairman, this act is the frontispiece of the civil rights movement in this country—the Civil Rights Act. It is the frontispiece. We have heard time and time again in this

debate of the numbers of black elected officials who now hold office because the right to vote was eased a little bit, and State legislative bodies were redistricted. We have heard of this coming of political awareness on the part of black people in the South.

But, Mr. Chairman, there is a provision in this act as it would be amended by this bill to include and expand it to language minorities. It would include for the first time my State, the State of Texas. There are Mexican-American people in the State of Texas who have been denied the right to vote; who have been impeded in their efforts to register and vote; who have not had encouragement from those election officials because they are brown people, and there are economic reprisals which would be leveled against them and they would be subject to boycotts and other discriminatory practices.

So, the State of Texas, if we approve this measure, would be brought within the coverage of this act for the first time. We were not brought in in 1965 because there was no literacy test in Texas, and consequently we were not brought under the provisions of this act. But, the committee has documented pages upon pages of testimony of acts of discrimination against brown people—Mexican-Americans—in Texas which are just as severe as those acts which triggered the original passage of the Voting Rights Act of 1965.

Those brown people in the counties of Texas would like for the Congress of the United States to make it possible for them to say, "I too am included, along with my black brothers and sisters, in the whole workings of the 14th and 15th amendments of the Constitution of the United States."

I feel the Congress can do no less.

When President Lyndon Johnson asked the Congress, in a special joint session, to enact the Voting Rights Act, the Nation had witnessed local officials in the South deny the right of blacks to register and to vote with billy clubs, tear gas, dogs, and bullets. The barriers were dramatic. The remedies afforded in the Voting Rights Act were equally dramatic for those times. Now, 10 years later, the drama may have subsided, but the barriers remain. And the barriers are as equally effective. County officials have tried to switch from district to at-large elections for county commissioners' offices. School boards have attempted to reduce the size of their boards. State legislatures have passed redistricting legislation containing multimember seats and numbered posts. Polling places have been moved without notice. Cities and counties have annexed new areas with the effect of diluting minority votes just when it appeared they might win an election. These, and more, devices have been continually objected to by the Department of Justice under section 5 of the Voting Rights Act.

The record before the Subcommittee on Civil and Constitutional Rights is replete with attempts by State and local officials to deny the right to vote to minority citizens within their jurisdictions. Because voting discrimination continues, though not on as dramatic a scale as 10 years ago, the Congress cannot do less than extend the Voting Rights for an additional 10 years.

For conclusive proof that the act is still needed one need only look to the Department of Justice's own records. The Department objected to 30 discriminatory voting practices proposed to be implemented last year by State and local officials. The Department entered 27 objections in 1973, 32 in 1972, and 50 objections in 1971. If the Voting Rights Act were no longer needed, it would seem to me that the covered jurisdictions would have ceased attempting to erect barriers to minority voting. But that is simply not the case. The barriers continue. And so must the Voting Rights Act—the most effective statute minorities have to guarantee that one day those barriers will come down.

In addition to extending the Voting Rights Act for 10 years the Judiciary Committee found that the same types of voting discrimination practiced in currently covered jurisdictions are also practiced in parts of the Southwest against blacks, Mexican-Americans and other language minority groups. Consequently the committee's bill extends the Voting Rights Act to these areas in two ways: First, by extending to some jurisdictions the full remedies of the Voting Rights Act, and second, by extending to other jurisdictions, where voting problems are less severe, the requirement that ballots and other election materials be printed in the language of the dominant language minority. Titles II and III of H.R. 6219 are a revision of H.R. 5552, introduced by myself and Mr. ROYBAL and Mr. BADILLO, and my original bill, H.R. 3247.

Mr. Chairman, I introduced these measures and I support the committee bill because I am persuaded that the only means available to language minority citizens, and specifically Mexican-Americans in Texas, to gain equal access to the franchise is through application of the remedies of the Voting Rights Act.

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

Registering to vote is a problem. In testimony before the Civil and Constitutional Rights Subcommittee, it was pointed out that the percentage of persons of Spanish surname who register to vote is 44 percent as compared to 73 percent for the Anglo population. As a remedy the Voting Rights Act authorizes the U.S. Attorney General to send Federal registrars into covered jurisdictions to assist in the registration process.

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

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

For each abuse there is a remedy in the Voting Rights Act. Although much has been made of the burden imposed upon covered jurisdictions by the act, the facts are otherwise. Federal examiners and registrars have only been rarely used. Submitting voting law changes to the Attorney General only requires putting the new statute in an envelope and applying a 10-cent stamp.

As the 10 years of experience of the Voting Rights Act in the South demonstrates, application of the Voting Rights Act to new jurisdictions threatens the political power of those who have employed various devices to minimize minority votes. The issue before us is not political longevity. The issue is whether the enforcement clauses of the 14th and 15th amendments of our Constitution can be made meaningful for those minorities denied equal access to their full voting rights. I believe every word in the Constitution is meaningful, and that is why I will vote for this bill.

Mr. BUTLER. Mr. Chairman, I yield 10 minutes to the gentleman from Illinois (Mr. MCCLORY).

Mr. MCCLORY. Mr. Chairman, in the course of our consideration of this measure under the 5-minute rule, I will be offering various amendments. In offering these amendment, I want to emphasize that I am wholeheartedly in support of extending the existing Voting Rights Act.

However, the measure which has been reported by the committee is a far cry from the Voting Rights Act of 1965, or the kind of extension which this House considered in 1970 and which I had in mind when I introduced the administration measure—H.R. 2148—in this session for a simple 5-year extension of the existing act.

I will offer several amendments directed primarily against the expansion of the Voting Rights Act to include so-called minority language groups. I want to emphasize my desire to preserve in

the bill a reference to the 14th amendment, as well as the 15th amendment. Accordingly, we should declare that all eligible citizens regardless of race, color, or any other characteristic, are entitled "to the equal protection of the laws," as provided in the 14th amendment—as well as the prohibition against discrimination based on race, color, or prior condition of servitude as set forth in the 15th amendment.

In my amendments, I aim to remove from this bill that entire title which would blanket in all of the minority language groups under the extraordinary remedies provided in the original law back in 1965, against practices of racial discrimination in voting which had developed for more than a century in certain parts of our country. Title II would extend those same remedies to all of those States and political subdivisions where there is 5 percent or more of a single language minority group and where less than 50 percent of the citizens voted at the last Presidential election in 1972.

First of all, in order to subject those states and areas to this extraordinary remedy, the legislation undertakes to establish as a new "test or device" that registration or voting notices, forms, and other materials or information relating to the electoral process, including ballots, are provided only in the English language. This new proposed "test or device" is made retroactive to 1972.

There is no way in which any of the States or political subdivisions could bail out of this situation. If the formula of a 5-percent minority language group—and less than 50 percent voting participation exists, the application of title II is automatic—the trigger is pulled. The State legislatures will be prohibited from making changes in their laws affecting elections, registration of voters, and the like, including legislation affecting the boundaries of electoral districts and all other matters affecting practices or procedures with respect to voting—unless first submitted to the Attorney General of the United States for approval.

Indeed, the areas governed by this title would be subject to the further imposition of federal registrars and examiners precisely in the same manner as was authorized in the 1965 act with respect to racial minorities.

Let me repeat, the basis upon which this extraordinary Federal control would become operative is that less than 50 percent of the persons of voting age voted in the Presidential election of November 1972, and, additionally, that a language minority group of 5 percent or more existed in the state or political subdivision.

As I mentioned also, the basis for contending that relief is required, as in title II, comes because the ballots and other election materials were printed only in the English language. There is no necessity for finding out whether or not all persons with Spanish surnames, or persons of so-called Spanish heritage, or American Indians, Alaska Natives, or Asian-Americans, understand the English language. The entire conclusion is reached on the basis of the two percentages.

The lack of factual information and the dearth of testimony or other evidence is apparent. This, indeed, may explain the reason for adopting the formula which triggers the application of these Federal controls. However, this reasoning is quite fallacious.

There is no evidence or other finding that Asian Americans, Alaskan Natives, or other persons are unable to understand the English language. Arguments will be advanced here that amendments should be rejected because there were no hearings on the subject of the proposed amendments.

Let me observe that with respect to Asian Americans, I find only two short paragraphs in a brief letter mailed to the chairman of the full Judiciary Committee which makes any reference to Asian Americans whatever. The statistic which the committee seems to have relied upon would indicate that this kind of remedy is needed in Honolulu, where presumably ballots and all of the various election information would be required to be printed in Chinese.

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

With respect to Alaska Natives, I have received a communication from Lowell Thomas, Jr., the State's Lieutenant Governor, in which he points out that there are a number of Eskimo dialects, none of which is reduced to writing. Indeed, the State of Alaska, by constitutional amendment in 1970, decided that knowledge of English was not a qualification for voting. However, Alaska would be subjected statewide to the penalties of title II, and compelled to provide election materials and ballots in languages of the language minorities, which, I remind you, are not indeed written languages.

In other words, the test or device, of which the entire State of Alaska would be guilty because it did not print its ballots or election materials in the language of its language minority group, would be completely powerless to extricate itself from the penalties of this title because there is not any form in which ballots or other election materials can be provided in the language of the applicable minority language group.

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

The requirements of title III will apply at once with respect to all elections, imposing the obligation to print ballots and all other election materials in the languages of minority language groups, many of which languages, as I indicated, do not exist in written form—with the only escape clause being that the District Court of the District of Columbia in a declaratory judgment shall find that the rate of illiteracy has risen so that the language minority group in question within the State or political subdivision is equal to or less than the national literacy rate. Let me add that illiteracy is determined arbitrarily by a Census Bureau finding that persons of the minority language group have a fifth grade education or less.

If there are any of us who feel that a literate society in the English language is important to our Nation's future, and to the successful integration, and economic and social welfare of our citizens of foreign origin, or of distinct ethnic backgrounds, these provisions of the proposed Voting Rights Act could only serve to perpetuate and make permanent English language illiteracy.

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

These titles of the bill, in my opinion, should be rejected as we move forward toward erasing the remaining discrepancies which persist in the discrimination against black Americans whose fundamental voting rights were and continue to be the main subject and obligation of this Nation and of this Congress.

In this regard, I should point out that present law already provides for mandatory responses to certain official surveys—and the Federal courts have repeatedly held that such data gathering is justifiable, constitutional, and definitely not an invasion of privacy. To alleviate concerns as much as possible, my amendment would also require that the survey takers sent out by the Census Bureau advise the interviewees that the data obtained from their responses will be used solely for enforcing Federal voting rights law—and for no other purpose.

Mr. Chairman, I would like to offer a brief explanation of two other amendments which I intend to offer to improve that section of this bill which provides for Census Bureau compilation of voter registration statistics for determining whether the extraordinary remedies of-

fered by this act will be triggered. It seems to me that the bill, as currently drafted, has two serious flaws in it with respect to its survey procedures.

First of all, section 403 directs the Census Bureau to compile statistics based upon race, color, and national origin only of all persons of voting age—what is obviously lacking here is a requirement that the Census Bureau elicit information on the citizenship of the interviewees. If we are interested in pinpointing discrimination against potential voters—we should at least be able to determine that a person has a right to vote in the first place—that he or she is a citizen of the United States.

Accordingly, I will offer an amendment to require that the Census Bureau compiles figures on citizenship as well as on race, color, and national origin—so that the Federal Government will have the relevant and reliable data necessary at hand before imposing the extraordinary remedies available under this act.

Second, Mr. Chairman, I will offer an amendment to require that persons interviewed in these surveys answer the questions posed by the Census Bureau regarding race or color. Similar surveys have shown that if responses are discretionary at the will of the interviewee, the statistics are often distorted and unreliable. It is necessary to require mandatory responses because a refusal by a small number of persons interviewed can lead to a very significant distortion in the resulting statistics.

Finally, it seems rather incongruous to mandate the Census Bureau to conduct a survey in which the Bureau is required to include a count of persons of voting age by race, color, and national origin—as specified in section 207, page 11 of the bill—while in the next paragraph it is provided specifically that "no person shall be compelled to disclose his race, color (or national origin)"—and no penalty shall be imposed for failure or refusal to make such disclosures. In addition, the bill would require the Census Bureau to advise persons interviewed fully regarding their right to fail or refuse to furnish such information.

If the surveys mandated by this legislation are to be useful in promoting voting rights of blacks and other minority citizens, then information must and should be compiled on a mandatory and not discretionary basis. In the first place, citizenship is a prerequisite to voting and should be basic to any such survey. Furthermore, if the statistical information relating to race, color or national origin is to be valid—and useful—it must be required from all of the potential voters, not some lesser percentage (at their option)—which would nullify the value of the statistics.

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

Mr. CONYERS. Mr. Chairman, I would like to raise a question with my friend, the gentleman from Illinois, a member of the committee. Is the thrust of his objection to expanding the Voter Rights Act to cover language minority groups such that we will be encouraging States to continue illiteracy patterns rather than encouraging them not to? Does the gentleman see some connection?

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

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

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

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

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

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

Miss JORDAN. Mr. Chairman, will the gentleman yield?

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

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

The gentleman is absolutely correct. The Texas Legislature, in great haste, upon learning that Texas may be included under the Voting Rights Act of 1965, passed a bilingual election bill. It was rushed through. It addresses only one small part of the problem: the English-only ballot where there is more than 5 percent of minority-speaking population. It does not relate one whit to the many county commissioners' courts, gerrymandering of precincts to dilute the minority precincts, black and brown in Texas. It does nothing about redistricting which was recently before the Texas Legislature and the many counties which still have many member districts which dilute the effect of the minority vote.

It does nothing about the integrity of the ballot in many elections which are being held by written election and the ballot is in one place and the voter signs the stub in another place and there is a correlation between the ballot and the stub and the seal is broken, so there is no consideration given to that question when we talk about bilingual ballots.

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

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

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

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

These have been 10 years in which the rights to equal educational opportunity have just begun to be recognized and implemented, in which discrimination has just begun to be eliminated, in which it is true hundreds of black officials have been elected in parts of this country where few or no blacks had been elected for generations. Yet the patterns which led to their exclusion in the past are patterns which have not been dissipated either in the minds or in the hearts of some of those who would oppose or weaken this legislation.

I would like to address myself to two or three of the criticisms of and proposed

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

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

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

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

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

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

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

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

Mr. BUTLER. No, quite the contrary.

Mr. SEIBERLING. Or was unable to meet the burden of proof.

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

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

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

Mr. SEIBERLING. The gentleman is proving my very point, that it is going to take time to dissipate the effects of past patterns of discrimination.

Mr. Chairman, I prefer not to yield any further.

Mr. BUTLER. I thank the gentleman.

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

The CHAIRMAN pro tempore (Mr. STUDDS). The time of the gentleman has expired.

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

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

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

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

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

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

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

Mr. BUTLER. Mr. Chairman, is the gentleman seriously suggesting we should extend the voting rights amendment for 10 years because of the remote possibility that in some remote county we might narrow the doorway to the registrar's office?

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

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

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

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

Mr. SEIBERLING. That is correct.

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

Mr. SEIBERLING. The gentleman is his own best expert on the Butler bailout amendment.

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

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

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

Mr. Chairman, there have only been three cases, and I would wager that there were not two of them which were heard by the same judges involved in the District Court for the District of Columbia. There is no such thing as the development of any expertise on this subject for the District Court for the District of Columbia. This is a very hollow point.

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

Mr. Chairman, it has also been suggested in the preceding remarks that a "10-year period of purity" is what would be involved if this bill passes in its present form. The Members should not rely upon my word or upon the word of the other gentleman. If they would like to find out just what it would be, they can read the bill. It would be 20 years—not "10-year period of purity" is what would to prove that it had no violation of any provision of the Voting Rights Act before a declaratory judgment could be obtained.

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

Section 11 of the Voting Rights Act of 1965 currently regulates voter fraud and conspiracy in Federal elections. Severe criminal penalties are provided to punish anyone who knowingly gives false information for the purpose of establishing his eligibility to register or vote. But, no criminal law prohibits anyone from voting twice—and this can occur in at least seven States which have no law prohibiting voting in more than one location. Thus, a person voting in Wyoming

could move to Arkansas and register, where he could register within 30 days without having to give up his Wyoming registration. If such a person were to vote twice in a subsequent Federal election, no law would be violated because each registration was procured with true information.

This amendment which I will propose remedies this gap in Federal law by prohibiting, in a new subsection, 11(e), voting more than once in the same Federal election.

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

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

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

But although I spoke only German until I was 4 years old, I learned English, too. And I have no reason to suppose that if this amendment were to pass, it would encourage people not to develop a mastery of English, as the gentleman from Illinois suggests.

What we are basically talking about in this bill is not something that is pure in form, not something that has all of the elements of ideal legislation. What we are talking about is a bill that has worked and it has worked for a decade. It has brought from 6 percent to above 60 percent in the State of Mississippi the number of blacks who are registered to vote, and it has prompted only 317 instances of actually bringing down Federal examiners who were called in response to some sort of voter irregularity.

I have in my own district encountered someone who came from outside the congressional district, who was of Spanish surname, and sought a county office. He wished to be registered to run for that office. On the day that registration for that office was to be closed, he was told that he was not allowed to register because of some sort of minor technicality. We were able, by telephoning the State attorney general, to get this man listed on the ballot. When the results came in from this election, he had himself previously taken 112 people with him to the polls to vote absentee for him, but only 55 votes were recorded for him, and he lost the election by 7 votes.

I suggest to the Members that if this bill had been in effect, this man, could after the first instance in which he saw some sort of discrimination was likely, have asked for Federal observers, and he might very well have been protected. He might be that county official today, whereas in fact, he is not.

We are not concerned, when we write bills, with achieving absolute perfection in form. What we are concerned about is improving the current legislation, and I think this current legislation would clearly do that.

In predicting the inevitable end of slavery, Thomas Jefferson said:

> Nothing is more clearly written in the book of fate than that these people shall be free.

It is pointless for us to talk about freedom in our society unless we can be sure that we have free and open elections, not only for blacks but for chicanos, not only for American Indians but for many others who Jefferson could not have foreseen some day might be citizens.

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

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

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

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

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

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

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

Mr. KRUEGER. I thank the gentleman.

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

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

The statement on page 20 of this report, where it says that the city's 1972 annexation was intended to dilute minority voting strength, is not only just plain misleading, but I repeat, it is a lie. No matter how lofty the intentions of any legislation, including this one, there is nothing that would justify using outright falsehoods in support of it. There is nothing in any legislation that would justify the use of fraudulent or misleading statements.

I am from San Antonio. I was born there. I represent now a fairly big chunk of the city of San Antonio. For the first 8 years of my congressional career, I had the responsibility of representing the entire county of Bexar, and therefore, I think I have a little experience in politics there and not only in San Antonio.

Mr. Chairman, I have campaigned the length and the breadth of the State of Texas, and I know about voting fraud. I know about restrictive legislation, and I know about intimidation and oppression.

I am for the Texas voters' rights. The first thing I did as a Member of this House in 1962 was to introduce a bill to eliminate the poll tax, as the hearing record on this bill recognizes; and I will not go into my antecedent record of public endeavor, both on the level of the City Council of San Antonio as well as in the State Senate of Texas.

I was not asked about the amendment that would, in effect, extend this act to the State of Texas and to the city of San Antonio. That does not offend me, but it puzzles me because I know a little something about the subject matter. I simply cannot understand and let stand unchallenged any statement that infers, as the report does, that the city of San Antonio annexation was intended to dilute, let alone violate, anybody's right to an effective vote. Until I read the report—and remember, I am not a member of this committee and therefore, this report was not available to me until fairly recently, a few days ago—so I repeat, until I read this report, I had never heard any such complaint. I read the hearing record, which, incidentally, I was not able to obtain, again, until late last week, during the recess. It makes no case that there was any such intention.

There are complaints about at-large elections and not having single-member districts. This entire legislation does not do anything about those issues, and it cannot. There is nothing that I know—and I stand to be corrected if I am wrong—but if I interpret this extension and amendments correctly, they have absolutely nothing to do with single-member districts or with that kind of irregularity. Moreover, this does not cure whatever effect requiring a majority runoff might have, for instance. There were complaints about having to have runoffs because every time there is a runoff, a minority candidate would lose. I do not know that this bill does anything about that.

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

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

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

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. GONZALEZ) has expired.

Mr. GONZALEZ. Mr. Chairman, will

the gentleman from California (Mr. EDWARDS) yield me an additional 5 minutes?

Mr. EDWARDS of California. Mr. Chairman, I yield the gentleman from Texas an additional 2 minutes, and at the end of that time we will see how we are doing.

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

Mr. Chairman, I am concerned here about what San Antonio intended to do when it annexed the territory in 1972 referred to on page 20 of the report.

I know that the record must be straightened out, and I will be derelict in my duty, no matter what opprobrium would result otherwise, if I did not see to it that this report is straightened out.

In Texas the usual practice for a city is to make an annexation of a subdivision. The subdivision wants the city services, and it petitions for annexation and, as a rule, it is done. That is the routine action.

In Texas there is a limit on how much land a city can annex at any given time. It is this restriction that led to the invention of the irregular, or the finger annexations, the kind of annexations that are mentioned in this report.

Under Texas law there is no county zoning power. If you want to control and/or to impose city building codes, then you have to annex the area, but there is a limit on how much you can annex on the part of the municipality.

Therefore the problem is, see, how do you get control over a subdivision, and how do you prevent the growth of these little bedroom cities that develop and take advantage of the city services, but pay no city taxes?

We have had a lot of that in San Antonio, just as I am sure the Members of the Congress have had it. Also such an enclave can get city water, use all of the city services, get city bus service, and yet pay nothing toward those services.

This bill does not do anything about that.

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

Well, how do you, under Texas, law, do this so as to prevent the incorporation of these little places? The law of Texas says you cannot incorporate a town within the extraterritorial boundaries of a city. That is a kind of buffer zone to prevent somebody setting up a town on the existing city limits. That is the main purpose.

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

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

The CHAIRMAN pro tempore. The Chair will state that the gentleman from California (Mr. EDWARDS) has control of the time. Does the gentleman from California wish to yield additional time to the gentleman from Texas?

Mr. EDWARDS of California. Mr. Chairman, one of the problems we are faced with today is that the Committee on Appropriations was supposed to be taking up an urgent bill on the floor of this House 10 minutes ago. I will be very glad to yield to the gentleman from Texas if the gentleman wishes to do so under those circumstances.

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

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

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

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

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

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

I would ask the gentleman from Texas where in the report on page 20 does the committee do the gentleman's city of San Antonio an injustice? Precisely what is incorrect in the report?

Mr. GONZALEZ. The report says:

In 1972, in Pearsall, Texas—

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

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

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

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

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

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

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

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

Mr. GONZALEZ. That is not true. That is not true. I have the statistics that I wish to make part of the RECORD in order to describe this misstatement. The truth of the matter is that in San Antonio historically and notoriously the Mexican American in effect is the majority at this particular time. He is not the minority at this particular time populationwise. This is simply an absolute fabrication. Nobody who has been responsible for this statement ever bothered to check with any official in the city either to get the history of the annexation or the truth of the annexation or the truth of the historical development of the city of San Antonio. I think that I would be derelict if I were not to correct on the record in general debate, which is the only opportunity I have, this serious misstatement on the part of the committee in issuing this report to accompany the act.

To continue, as I said, there is no county zoning law in Texas, so if we have a situation of a city like San Antonio or any other similarly situated city, their big question is, How can we come in and insure an orderly development? This so-called 1972 spoke or finger annexation had one primary purpose and that was to try to exert some municipal control over the aquifer which provides the sole source of water for the city of San Antonio.

Where do we come in here with any attempt to discriminate against any voter? There is just absolutely not one scintilla of evidence or fact or thought in this, and I think that as Members of Congress, or even members of the staff, we have to have a deep veneration for the fact and the word. I just think it is abominable that such a distinguished committee as the Committee on Jurisprudence would allow over its imprimatur to publish a report that would be such a gross and misleading fabrication, and I want no doubt in anybody's mind that I strongly protest it.

The law in Texas says we cannot incorporate a town within those extraterritorial jurisdictions that the legislature has given incorporated cities, so we have some buffer zones, and they could be strangle zones. In fact, to talk about voter discrimination, we ought to worry about economic discrimination because of that practice, and certainly this act has nothing to do with that.

San Antonio could not get control over subdivision growth in any way except the use of this annexation technique. It could not take in all of the areas that it needed to control. The county cannot exercise any zoning control, so the city annexed spokes of land down highway areas and developed areas.

That gave the city a zone of jurisdiction adjacent to those spokes, and allowed San Antonio to get the kind of basic control that any reasonable mind would desire.

There was nothing sinister about any of this. These spoke annexations go all

around the city, just like the spokes of a wheel.

That is why irregular annexations exist.

San Antonio did make a giant annexation in 1972, and I think that anyone who knows the facts of the situation will be able to tell you that the purpose of that was anything but discriminatory. The city had not annexed anything, except by petition, for a number of years. Huge new facilities had mushroomed outside the city limits. There was a need to provide services to those areas. The town needed tax revenues from those areas. So it was done. In 1972 San Antonio annexed much of the area that it had previously controlled by means of its spoke annexations.

I have obtained a complete statement from the San Antonio city attorney with respect to those annexations, and make that a part of the record. I also have a map illustrating those, and will show it to anybody having any questions to ask. And I will make part of the record statistics relevant to those questions.

I do not think it is proper, in our zeal to protect voting rights, to make misleading statements, as was done here in the case of San Antonio. I hope that I have been able to straighten the record out.

San Antonio did make annexations, and they do look irregular. But the inference drawn is wholly incorrect and not supported by anything in the record of hearings.

There is much to debate about here. The rate of voter participation can be affected by many things. It could be affected by low enthusiasm. Candidates without much to say, or the dearth of candidates, might cause low participation. The Republican Party in Texas was only invented a decade or two ago, and in Bexar County in 1956 it was only invented as a means of getting some general election opposition for me. The Republicans are not a factor in Texas politics, in the usual sense of that word, and they are especially not much of a power in San Antonio. So there is not a lot of excitement about elections sometimes. Maybe that accounts for low enthusiasm.

No one can say for sure.

Maybe the fact that elections are on Tuesday affects turnout. It is tougher for a working guy to get out and vote than it is for someone who does not have to work—a retiree, for instance. Maybe we should have elections on Saturday or Sunday.

Again, nobody can say for sure. We can speculate, but we have no real basis for drawing any conclusions.

It seems to me that what we ought to be considering here is whether or not to set up a whole basic Federal election code. Maybe we should treat all jurisdictions alike. But it is certain that if this whole bill is predicated on statements like those about San Antonio, it is plain erroneous. This error, and I think it is not intentional, nevertheless makes me wonder whether I can support the bill.

I am in a dilemma here: I want full and effective voter participation. I have worked for human and political rights throughout my career. And yet here I see a bill that would affect my own city in a way that is wholly uncalled for, based on a complete misstatement of the true situation, and which worst of all would not in any way resolve the grievances complained of. It would not change the existence of at-large districts. It would not eliminate runoff elections. It would not address those things at all—and yet those are the grievances most often alluded to, most documented, and most argued of. This bill would not really change anything in San Antonio, at all. After all, there has been no intimidation reported to the committee; there has been nothing at all, except the annexation aforementioned, and which I have explained. As far as I can see, the bill as applied in my city would rectify nothing.

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

Mr. GONZALEZ. Mr. Chairman, I ask unanimous consent that I be allowed to proceed for 1 additional minute.

The CHAIRMAN pro tempore. The gentleman will suspend. The Chair must advise the gentleman that under the rule that request is not in order.

Mr. GONZALEZ. Mr. Chairman, I include the following information:

BRIEF HISTORY OF SAN ANTONIO ANNEXATION (1965–75)

I. GENERAL LAW

Municipal annexation power is a legislative function delegated to cities by statute. In Texas, prior to 1963, the only statutory limitations on the power of Home Rule cities (of which San Antonio is one) to annex was that the land in question be adjacent to the annexing city and not within the boundaries of another city. This latter limitation was likewise imposed upon incorporations of new towns. *Arts. 1175, 1133–1134, Vernon's Anno. Tex. Stat.*, and *State ex rel Pan American Production Co.* vs. *Texas City*, 303 S.W. 2nd 780.

City governments have always had one or more of the following motives in annexing new territory: (1) To gain tax revenues; (2) To control the growth and development of the City (Texas cities have no zoning control beyond their boundaries, although since 1931 they have had subdivision control. *Art. 974a, V.A.T.S.*); (3) To prevent the incorporation of towns around their outer boundaries. Such incorporation ultimately leads to duplication of municipal services as the "parent" city grows around the incorporated "bedroom" city. (Olmos Park is a good example). (4) Political considerations. For example, black communities have been excluded from annexation by some southern cities.

Prior to 1963, an annexing city was not compelled by legal mandate to service annexed areas. Indeed the only thing that prevented massive annexations (which nevertheless sometimes did occur) of land for revenue purposes alone were political considerations. People do not like to be annexed and receive no municipal services for their newly imposed taxes.

In 1963, however, the law of annexation was drastically changed by the legislature. See *Art. 970(a), V.A.T.S.* This bill was no doubt passed to prevent some of the annexation excesses and abuses of cities in the past, such as that exemplified by the Pan American case, supra.

Article 970(a) contains a number of provisions, but the following ones should be noted, at least in essence:

(1) The statute created an "'extraterritorial jurisdiction" (ETJ) for cities of various population brackets. Cities of 100,000 or more were given five (5) miles of ETJ. There were several incidents of ETJ. First, a City could not annex beyond the limits of its ETJ, except by request of property owners. Second, no town could incorporate within a City's ETJ. Third, a City's subdivision regulations were applicable within its ETJ (but not its zoning or building regulations). Fourth, ETJ land was not taxable by the City. Fifth, when a City annexed within its ETJ, the latter expanded accordingly. (This accounted for San Antonio's "spoke" annexation of the middle sixties).

(2) Further limitations were placed upon the area a City could annex in any one year. Thus a City was limited to annexing a maximum of an amount equal to 10% of its total area in any one year. *Area annexed by petition of landowners did not count against this 10%*, however. Furthermore, a City could build up "credit" to the extent of an amount equal to 30% of its total incorporated area by annexing less than 10% in three or more calendar years.

(3) The annexing City was compelled to furnish municipal services to the area annexed within three years from the time of annexation or the land was subject to being disannexed.

(4) The requirement of "adjacency" was retained in annexations.

THE "SPOKE" ANNEXATIONS

Under Art. 970(a), a City, while limited in the extent and area of its yearly annexations, was given a measure of protection against the encroachment of bedroom cities in the ETJ and given subdivision control in the ETJ. San Antonio's government did not feel, however, that 5 miles of ETJ was enough. As noted above, the ETJ expanded, under Art. 970(a), with any given annexation. Thus, if a City annexed out one mile beyond its boundary, its ETJ was extended out beyond the newly annexed area accordingly. This gave rise to the "spoke" idea.

There are, of course, many roads and highways leading into San Antonio. They are publically owned and controlled. Annexation of such roads and highways would net no taxes nor population to the City, but would increase the extent of the City's ETJ. Thus, if such roads and highways entering the City were annexed out to the extent of the City's ETJ, the latter would double if the roads and highways were close enough together. Instead of having a 5-mile belt of ETJ, the City would have a 10-mile belt and this would be accomplished without annexing any privately owned land.

San Antonio, in 1964, in accordance with the above, annexed roads and highways out to the limit of its ETJ, but such annexations included *only* the roads and highways. The result was as above stated. Several lawsuits also resulted later, challenging this device, but the City won them.

This broad belt of ETJ had a good deal to do with San Antonio's failure to make any significant annexations until 1971. After all, it had 10 miles of subdivision control and 10 miles of insulation against the establishment of "bedroom" cities.

PATTERN OF SAN ANTONIO ANNEXATIONS FROM 1965–75

As of January 1, 1965, San Antonio contained 176.8 sq. miles. Since that time, the City has annexed 86.2 sq. miles. There have been 112 separate annexations, almost all of which were "petitioned" annexations and thus did not count against the City's yearly 10% allotment. The typical "petitioned" annexation involves a subdivider who has gotten his plat approved by the Planning Commission, having originally purchased the land when it was in the ETJ. His motive for requesting annexation is desire for City services (which ETJ land is not entitled to).

The great bulk of San Antonio area de-

velopment has been to the northwest, north, and northeast and this is where most of the annexations have been. The development trend to the Northwest, North and Northeast has progressed faster than to the West and South for several reasons. Besides the location of the U.T.S.A. and the medical hospital facilities on the North and Northwest sides, the topography of the San Antonio region together with past development has to a large degree forced such a pattern.

For instance, the general fall of the land is in a south and southeasterly direction from the north and northwest. The elevation of the land to the south side of San Antonio is much flatter and has small grade differentials. This results in much more area of land on a percentage basis being subject to periodic flooding as well as taking longer for run-off of such waters. Additionally, as the waste water systems of the City are mainly gravity flow, the regional treatment facilities have all been located on the south side within the watersheds of the various natural drainageways. As these lines terminate at the plants, all of them are on an almost flat gradient and of very large size as well as approaching being a pressure system. Accordingly, the planning and construction of systems adequate to support development in the far south side of San Antonio would be difficult and expensive, both in construction and operation, without construction of additional major treatment facilities some distance further to the south of San Antonio. The result has been that the economics of development has been to portions of the area around the City other than southwest and south.

Still another factor which to some degree fosters development other than to these areas is the availability of potable drinking water. Again, because of the underground formations, developers have determined it is more advantageous to develop areas where a water source is readily available through either City's system or the development of their own, and the existing formations on the south side do not produce the quality desired.

There have been three notable exceptions to our "petitioned annexations" in the past 10 years. The first was the UTSA annexation in 1971. The second was our massive December, 1972, annexation. The third was our recent (1974) Randolph Field annexation.

The UTSA Annexation

This annexation in 1971 was requested by the Board of Regents of the University of Texas in order that the UTSA and its immediately surrounding area be afforded City services, particularly fire and police protection, water and sewage. The area annexed was roughly 13 square miles and had to be reached by a "spoke" which had been previously annexed by the City.

This area was sparsely populated except for a small unincorporated, but newly developed, area called "Hills & Dales" (some of the inhabitants of which filed a lawsuit contesting the annexation in the Federal Court. The City won).

The UTSA annexation is shown on the small Polaroid photos in yellow in the upper left-hand corner and, of course, upon the larger maps which accompany this narrative.

The 1972 annexation

As inferred above, San Antonio, from 1965 to 1971, annexed almost exclusively by "petition". Almost all of the petitions were from subdividers whose subdivisions were northwest, north or northeast. Thus, as of 1972, San Antonio was in a position to annex an amount of land equal to 30% of its corporate area.

By 1972, it had become apparent that large areas around the City's boundary—especially in the northwest, north and northeast—were either developed or were going to be developed in the immediate future. The UTSA area was an anomaly, far removed from the City and connected thereto only by a spoke. The developed or developing areas were becoming densely populated and this created municipal problems in the traffic, police, fire and health fields. Additional tax revenues were necessary to meet these problems and the imposition of zoning was desirable. The protection of the Edwards aquifer was also a factor.

For all these reasons, the City Council annexed approximately 53 square miles of land, the bulk of which was southwest and west (around Kelly Field), northwest and northeast.[1] This area is shown on the accompanying maps.

The Randolph Field annexation

In 1973, Air Force officials began to be concerned about threatened buildup of the area immediately south of Randolph and asked for San Antonio's cooperation in controlling such buildings. (Both ground and flight safety were their primary concerns).

Largely to accommodate the Air Force, San Antonio, again using a spoke as in UTSA, annexed about 9 square miles in the area in question in order to impose zoning restrictions upon the same. This annexation has been challenged in the Federal Court and thus far the City has prevailed. The case is now on appeal to the Fifth Federal Circuit Court. The annexed area is sparsely settled, but is active agriculturally. It really is not "municipal" land, but zoning was needed, as aforesaid.

V. SUMMARY

From what has been stated thus far it is easy to see that San Antonio's annexations over the period 1965–1975 have been made for three of the classic reasons set out in the beginning (prevention of "bedroom" cities, acquisition of tax revenues, control of growth and development of the City). Two major annexations, the UTSA and Randolph, were largely at the instance of the State and of the Air Force, respectively. The fourth reason, political, has truly played little or no part. There has been no effort to make any systematic exclusion of ethnic minorities and there has, in fact, been no such exclusion with respect to ETJ areas otherwise appropriate for annexation. (In fact, in the 1972 annexation there were two "substandard" subdivisions, heavily populated by Mexican-Americans included in order to furnish them City services—not for tax purposes because the services cost more than the amount of the tax revenues from them. These two areas, both small, are Villa Coronado and Grass Valley Acres, shown on the accompanying maps).

It is true that about 70% of the populations of the area annexed have been white Anglo-Saxon. But this results from the fact that annexation follows growth, or potential growth. Most of the area annexed over the subject period has been either residentially developed or has immediate potential for such development.

White Anglos, as a group are more affluent than either Mexican-Americans or Negroes and consequently they buy more new homes per capita than do the latter. It might be added that bulk of Bexar County's Mexican American population and virtually all of its Negro population reside in San Antonio. Few Mexican-Americans reside in the "bedroom" cities and even fewer Negroes so reside and the County is sparsely populated otherwise than in San Antonio and the "bedroom" cities.

VI. CONCLUSION

San Antonio's annexations—1972 included—have not been ethnically or politically motivated nor have they resulted in ethnic discrimination. Any assertions to the contrary are simply not factual.

CRAWFORD B. REEDER,
City Attorney.

ANNEXATION 1970–74, POPULATION, SAN ANTONIO

	Total	Anglo	Mexican American	Black	Other nonwhite
Addition	55,261	39,939	13,112	1,566	644
Percentage		72.27	23.73	2.83	1.17

Year	Acres per year	Square miles per year	Cumulative square miles
Acres annexed 1970–74:			
1970	213.4430	0.3335	184.1450
1971	8,800.6830	13.7511	197.8961
1972	34,434.8300	53.8044	251.7005
1973	985.0000	1.5391	253.2396
1974	6,301.2970	9.8458	263.0854

POPULATION, SAN ANTONIO, 1970—DEPARTMENT OF LABOR 1970 CENSUS

	Total	Anglo	Mexican American	Black	Other nonwhite
Population	654,153	256,390	341,333	50,041	6,389
Percentage		39.2	52.2	7.6	1

ANNEXATION, 1970–74, POPULATION ESTIMATE

Annexation No.	Anglo	Mexican-American	Black	Other nonwhite	Total
201					0
202	5	2	0	0	7
203					0
204					0
205					0
206	9	2	0	0	11
207					0
208	102	25	0	2	129
209	361	95	2	2	460
210					0
211	9	2	0	0	11
212	1,068	208	55	56	1,387
213					0
214	1,566	177	1	7	1,751
215	34	6	0	0	40
216					0
217	30	11	0	0	41
218					0
219	6	1	0	0	7
220	5,614	2,502	203	111	8,430
221	9,476	1,639	417	134	11,666
222	50	10	3	0	63
223	11,647	4,370	706	168	16,891
224	5	2	0	0	0
225	9	1	0	0	17
226	1,921	279	11	23	2,234
227	1,377	115	2	2	1,496
228	64	9	0	1	74
229	539	45	0	2	586
230	721	129	1	3	854
231	1,376	294	2	15	1,687
232	3,348	487	41	74	3,950
233	124	116	2	2	244
234					0

[1] This made developer Ray Ellison unhappy and he filed a lawsuit to invalidate the annexation, claiming that the City had taken an area greater than 30%. We felt it possible that he was correct and joined with him in judicially invalidating the whole annexation. In the next few months, we carefully computed and outlined "safe" boundaries and annexed essentially the same area and this was not challenged (December, 1972).

ANNEXATION, 1970–74, POPULATION ESTIMATE—Continued

Annexation No.	Anglo	Mexican-American	Black	Other non-white	Total
235	128	1,931	10	34	2,103
236	5	69	0	1	75
237	71	13	0	1	85
238					0
239	38	461	104	4	607
240	174	103	6	2	285
241	62	8	0	0	70
242					0
Total	39,939	13,112	1,566	644	55,261

Mr. EDWARDS of California. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I refer the committee and, of course, my good friend, the gentleman from San Antonio (Mr. GONZALEZ) to page 368 and page 369 of the hearings and the statement of George J. Korbel, assistant regional attorney for the EEOC of Chicago, who in 1971 took the position as staff attorney with the Mexican-American League Defense Fund of San Antonio, Tex., and remained there until November of 1974.

This witness gave very impressive testimony pointing out that:

In 1972, the city of San Antonio made massive annexations (moving the city from 11th to 9th largest city in the Nation) including irregular or so-called finger annexations on the city's heavily Anglo north side. The population breakdown in the areas annexed was overwhelmingly Anglo although the city was previously almost evenly divided between Anglos and Mexican Americans . . .

In the recent general elections held in November of last year, none of the five absentee polling places were located in San Antonio's West Side barrio; this in spite of the fact that the difficulty of political participation which the 200,000 Mexican Americans in that area experience had been extensively commented on by a Federal district court and affirmed by the U.S. Supreme Court *Graves v. Barnes,* 343 F. Supp. 704, 703–733 (W.D. Tex. 1974).

So for the gentleman from Texas who has always been a strong supporter of civil rights and a good friend of the Committee on the Judiciary to characterize the report of that committee as mendacious or in some way indicate that it is erroneous by design certainly is not appropriate.

Mr. GONZALEZ. I reiterate my statements.

Mr. EDWARDS of California. For the gentleman from Texas to characterize the report in those terms is not in accordance with the gentleman's usual accord with fair procedure in the House.

Mr. GONZALEZ. If the gentleman will yield, I wish to reiterate that statement and say I am aware of that inclusion of that testimony from this gentleman. The trouble is the gentleman never returned from Chicago to San Antonio long enough to get the facts.

Second, there is another statement on the part of a professor of government, St. Mary's University, San Antonio, Prof. Charles L. Cotrell, in which he makes reference to San Antonio, and not to the annexation but in general terms, and he is talking about such things as single-Member districts. Unless I am abysmally wrong about this legislation, this bill we have here has nothing to do with single-Member districts.

Mr. EDWARDS of California. Mr. Chairman, I yield myself an additional 2 minutes.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield further to me long enough for me to submit into the RECORD, if the gentleman desires proof, a statement from the city attorney of San Antonio, together with the facts surrounding the city's annexation in 1972? If the gentleman says he is interested in proof, would he accept this, and I will ask unanimous consent now that this be accepted into the RECORD.

Mr. EDWARDS of California. That cannot be accepted into the RECORD now. That has to be done in the House.

If the gentleman will present it to me I will be interested in reading it.

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

Mr. EDWARDS of California. I yield to the gentleman from New York.

Mr. BADILLO. Mr. Chairman, this bill does have to do with annexation and with single-Member districts. It is not that it is mentioned in the bill, but the fact is that once a district becomes covered, then any change in procedures to at-large districts or any annexation becomes subject to preclearance by the Attorney General, and therefore the effect of covering the State of Texas under this bill would mean that any future redistricting, any future change would be subject to preclearance. Therefore, although it does not appear in the bill as such, these actions would be covered and have in fact been covered in the seven States which are presently subject to the jurisdiction of the law.

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

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

Mr. McCLORY. Mr. Chairman, it is perfectly clear that the evidence for the extension of the Voting Rights Act is so completely unreliable, in contrast to the substantial evidence that we had when we enacted the original Voting Rights Act in 1965, that we should give very thoughtful consideration to a flat simple extension of the Voting Rights Act without this terrible expansion which is intended to include all kinds of other minorities than the black minority, who were entitled to this kind of support when we enacted the original Voting Rights Act in 1965.

Mr. BUTLER. Mr. Chairman, I yield 5 minutes to the gentleman from Colorado (Mr. JOHNSON).

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

Mr. JOHNSON of Colorado. I yield to the gentleman from North Carolina.

Mr. MARTIN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, although no board of election in my district is currently encumbered by the 1964 Voting Rights Act, and could very well face action from time to time under the Wiggins substitute, I rise in support of the amendment in the nature of a substitute offered by our colleague from California (Mr. WIGGINS). I have no objection to a uniformly fair and evenhanded standard being applied across the country.

Much has been said here today in praise of the Voting Rights Act and I join in that praise in that I believe that in the recent past the act served the Nation well in bringing minorities into the political process and effectively ending racial discrimination at the voting booth. Denial of access to political participation on the basis of race was and is morally as well as constitutionally wrong. The Voting Rights Act ended it. For that we should be grateful.

While I do not represent an area covered by the act, I recognize the problems with the act and support the way they can be cured by the Wiggins substitute.

The extension proposed by the committee would lock in place the act's supervisory mechanisms regardless of whether or not a jurisdiction has ended discrimination. It is eminently fair that a jurisdiction which has cured its ills be allowed to get off "medication." The Wiggins substitute will do this by making imposition of the act's protections depend on the jurisdiction's progress, while the committee proposes to extend a State's punishment based upon its history without relation to its progress. The Wiggins substitute provides an incentive for covered jurisdictions to maximize minority participation, something the committee's extension does not do.

These walls heard debate 115 years ago about erring sisters being allowed to go in peace. Shortly thereafter, the Union preserved, it was briefly fashionable to treat the erring sisters as pariahs, as conquered provinces. Today, we recognize that the Voting Rights Act was necessary for a while. I am sure most of my neighbors representing districts covered by the act agree. We had some sisters who erred, and the penance imposed 10 years ago has changed the face of politics in the South, literally and figuratively.

So, instead of locking in place forever the admittedly protective mechanisms in this act and, thereby treating the covered jurisdictions as conquered provinces again, we should adopt the Wiggins substitute and/or the Butler amendment which allows formerly errant jurisdictions to be rewarded for having changed their bygone ways. The substitute would be there to reextend protections in the event of any backsliding. Importantly, it would not focus punishment on the South alone, but would improve the voting rights of minority citizens in all States.

Adoption of the Wiggins substitute, apart from giving me a Voting Rights Act—vintage 1975—that I can fully support, will recognize that the South has changed enormously in recent years, and changed for the better. Ten years ago, the original Voting Rights Act allowed millions of American citizens to reenter the political life of our country. The Wiggins substitute would permit hundreds of American communities 2 years

from now to reenter the political life of the country cleansed of discrimination and with a strong incentive to remain cleansed.

Mr. JOHNSON of Colorado. Mr. Chairman, I am strongly in favor of the Voting Rights Act which protects the rights of every individual in the country to vote; but I would like the attention of the gentleman from California (Mr. EDWARDS).

I would like to point out to the gentleman, because I think it is illustrative of the problem that I have with the bill, as one who is nominally in favor of it.

I would like to point out one of the problems we have in this little area of northern Colorado, we have three counties with populations of less than 5,000. There is Clear Creek with 4,784; there is Jackson with 1,809 and there is Sedgwick with 3,405. I have a total of nine counties which qualify, and only three of them have a population of 20,000 people.

Now, each of these small counties as I understand which qualify under the bill have to come back to the District of Columbia to "bail out" of the provisions of the bill, or else they have to print their ballots in both Spanish and English. Now, as I understand the provisions——

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

Mr. JOHNSON of Colorado. I might say to the gentleman that we have already checked these figures. I know about those nine counties that qualify.

Mr. EDWARDS of California. Pardon me, I did not get that.

Mr. JOHNSON of Colorado. Before they can bail out, they have to print those ballots in both Spanish and English. To bail out, they have to come back to Washington, D.C., and get permission from the district court back here. That does not make any sense to me whatsoever.

I have been in every one of those counties recently. I have never had a complaint that anybody is being discriminated against in registration or anything else. I do not have any qualms about the district court in Colorado. Why cannot the district court in Colorado make a determination that these counties should be able to bail out? It is hardly worth their while to come back here to the District of Columbia to be exempted under the provisions of the bill. What is wrong with having a district court locally make that kind of determination?

Mr. EDWARDS of California. Well, it was determined in 1965 that it would work much better and be more appropriate to have the district court here in Washington, D.C. handle those matters. It has worked very well. I believe that the committee would resist the amendment which is coming up tomorrow. I certainly would hope that the amendment that is to be offered tomorrow would be defeated.

Mr. JOHNSON of Colorado. I would ask the gentleman, is he saying that because of what happened in 1965 we are writing legislation that is not more effective?

Mr. EDWARDS of California. I have read the testimony that shows we have all kinds of serious problems in voting discrimination in this country today. The situation has improved to a certain extent, but there is strong need for continuation of the present provisions of the Voting Rights Act.

Mr. JOHNSON of Colorado. The gentleman is in effect saying that the U.S. district court is so prejudiced, so unqualified, so unresponsive to the law that we cannot let something like this be decided in the U.S. District Court of Colorado, because in that jurisdiction the district court of Colorado is incapable of making a fair decision; that we have to come back to Washington because that is the only place we can get a fair decision. That is an absurd position on its face.

Mr. EDWARDS of California. The gentleman will have the opportunity to demonstrate that to the House at the proper time.

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

Mr. JOHNSON of Colorado. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, actually, the Department of Justice desires to centralize all litigation about this matter right here in the District of Columbia. If they had cases all over the country, they would have their attorneys going out with extensive documentation to Colorado, Texas, and Massachusetts. The Department of Justice in this and other areas of national importance feels that they should build up a body of jurisprudence right in the District of Columbia and it is they, more than the civil rights group, that really want to locate this here, rather than the regional aspects.

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

Mr. JOHNSON of Colorado. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, might I just add an additional reason? That is, in the original instance there was so much racial animosity that involved these cases that many judges, many Federal judges sitting in parts of the South, were so seriously intimidated and so threatened that it was considered that it was a very important reason. That is not to suggest that this is going to be the case in the gentleman's State or in other States, but it is a general application that is very, very necessary.

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

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

Mr. JOHNSON of Colorado. Mr. Chairman, I would like to make a comment, because I understand the gentleman's point of view, but he is imposing a burden in an area of the country where it is not justified. I do not know why we cannot work out some legislation which would prevent that kind of a burden being imposed.

The people in the area of Colorado of which I am aware, where they are illiterate in English and speak Spanish, most probably are illiterate in Spanish. They have not had schooling in Spanish, so we are going through an additional expense of setting up a procedure where we cannot go through the easy way of exempting these counties.

I do not believe we ought to exempt all the counties. The burden is on the county, but it ought to be done in an area where it is convenient. I can give the committee four more counties where the population is less than 10,000. They have a county attorney, and the gentleman from Massachusetts (Mr. DRINAN) says they should come back here because it is convenient for the Federal Government. They have to bring all their proof and everything back from a county in Colorado.

Jackson County has a population of 1,800 and has a part-time county attorney. He should come to the District of Columbia because it is inconvenient for the Justice Department to go out there to Colorado. That does not make any sense to me.

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

Mr. JOHNSON of Colorado. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, the argument just made by the gentleman from Massachusetts to the effect that we were building a body of expertise among the judiciary in Washington does not hold up. We called the Clerk's office and got these statistics:

During the time of this act, only 10 bailout cases, including one brought by the Attorney General, were brought under the Voting Rights Act. Fourteen judges sat on the three judge panels. Only two have decided four cases and one has decided three cases. The other 11 set were consents. Only three resulted in decisions other than consent decrees.

Thus, even in these cases, no expertise has been developed.

Concerning the likelihood of decisions remaining and that litigation must be centralized in Washington to save the Government from litigation, only 10 suits have been filed in 10 years. In Honolulu, they have chosen to ignore Washington and have gone forward even though they are under the act. The gentleman may consider that alternative, although if he does that, he runs the risk of every voting procedure we have will be held illegal in a later litigation.

Mr. CLAY. Mr. Chairman, it has been said that the Voting Rights Act of 1965 is the single most important piece of civil rights legislation in our Nation's history. The relative merit of such claims notwithstanding, I can say with some real assurance that this legislation, like none before it, has effectively begun the process of guaranteeing the most fundamental of those essential rights descriptive of any truly democratic society, the right to vote. Certainly, until the award of the basic franchise is in reality universal,

from the large urban metropolitan areas of the eastern seaboard to the most remote rural backwaters of the Deep South, America cannot in good faith pretend to democratic laurels it has not earned. No doubt in the last 10 years, we have made notable progress but we have yet a long course to travel. There remain millions of Americans who are denied the right to vote for no other reason than the color of their skin, the foreignness of their tongue, or the simple want of English literacy.

The Voting Rights Act of 1965 as extended in 1970, prohibits racial discrimination in voting everywhere in the United States. But Mr. Chairman, certain key provisions of this historic legislation are only temporary. Unless the Congress acts with constructive dispatch, these provisions, and the national suspension of the use of tests and devices as a condition for registering and voting enacted in 1970, will expire in August 1975.

Should these temporary provisions expire, the remaining provisions will be rendered virtually meaingless; that is, remedial legislation with no practicable mechanism for enforcement. Under the expiring provisions the following safeguards are afforded: Section 4 suspends the use of literacy tests and devices as conditions precedent to registration and voting in subdivisions where voter registration or turnout for the Presidential elections of 1964 or 1968 were less than 50 percent of the voting age population; section 5 disallows any change in a given jurisdiction's voting laws without prior approval of the proposed changes by the U.S. Attorney General or the district court for the District of Columbia, either of which is charged with deciding whether or not the proposed change is discriminatory in purpose or application; sections 6 through 9 empower the Attorney General and the Civil Service Commission to send examiners and observers to watch over questionable elections and, when necessary, list eligible voters for registration.

If these provisions that make up the act's enforcement apparatus are allowed to expire, any of the presently covered jurisdictions may remove itself from supervisory coverage by demonstrating to the district court for the District of Columbia that it had not used a discriminatory test or device for 10 years. Once the provisions expire and the jurisdictions are released, they would then be free to resume the use of literacy tests and other obstructing devices; they would not be required to present electoral laws for preclearance as required by section 5; and the Attorney General would have no further authority to send examiners or observers. In effect, with the task but half complete, the Voting Rights Act would become a legislative nullity.

Mr. Chairman, the House Judiciary Subcommittee on Civil and Constitutional Rights Act has given its approval to H.R. 6219, a measure if passed by the House and the Senate and signed by the President would:

First. Extend the temporary coverage provisions of the 1965 Voting Rights Act for 10 years;

Second. Permanently ban literacy tests; and

Third. Expand the Voting Rights Act to cover more than 6 million Spanish-speaking citizens, as well as native Alaskans, Indians, and Asian-Americans.

Mr. Chairman, I strongly urge my colleagues to support this extension bill. To do less would constitute a clear retraction of our national commitment to the safeguarding of the most threshhold of rights.

Recently, Mr. Chairman, upon reading a report published by the U.S. Commission on Civil Rights entitled, "The Voting Rights Act: 10 Years Later," I was deeply impressed by the gains we have achieved but equally alarmed by the distance we have yet to go.

It is indeed encouraging to find that since passage of this legislation, more than 1½ million new voters have registered in the South; that by January 1972, black registration in the seven covered States had increased from 29.3 percent of the black voting age population to 56.6 percent, and that the gap between black and white registration had decreased from 44.1 percentage points to 11.2 percentage points.

These data clearly describe real progress but it remains principally important to remember that we are still in the early stages of eradicating the odious stain of centuries of discrimination, that were these temporary provisions not extended, the likelihood would be that we would find ourselves back at the starting point.

It is significant to note that 105 years after the ratification of the 15th amendment and 10 years after passage of the Voting Rights Act, 2½ million blacks today in the South remain unregistered. Though comprising large segments of the population in each of the covered seven States: Mississippi, 37 percent; South Carolina, 31 percent; North Carolina, 22 percent; Virginia, 18 percent; et cetera—no blacks holds statewide office in any of them. Nor does black representation in any of the State legislatures scarcely approach the black proportion of the voting age populations in the respective States.

It is of no small and revealing consequence that whites throughout the South are still very much in control of the electoral machinery. Verified reports abound detailing accounts of lost ballot boxes, inconvenient registration hours, and inaccessible locations for voting and registration. The results: Blacks remain underrepresented even in the 84 southern counties where blacks comprise voting age majorities.

For these reasons among others, the real implications of a congressional failure to extend the special provisions are frightening, more especially in view of one approaching development: Based on the 1980 census, by 1985, all States and many local jurisdictions will have redrawn lines for representative subdivisions altering constituencies from town council districts to congressional districts. Mr. Chairman, I think none of us here has any allusions about the outcome of this redistricting process should the section 5 preclearance requirements be removed. The small gains that blacks have made to date could be all but wiped out by those remaining unreconstructed whites in power who still resist the command of the 15th amendment.

A similar result will obtain, Mr. Chairman, if the national ban against the literacy test is not continued. By March 1974, 12.9 percent of blacks over 25 years of age had received less than 5 years of formal education. For Mexican-Americans the figure was 27.2 and 19.5 percent overall for Spanish-origin populations. As discouraging as these measurements may be, illiteracy is hardly a disability peculiar to blacks and Spanish-speaking Americans. In absolute numbers, more whites living in America are functionally illiterate than are minority group members.

Mr. Chairman, it is safe to assume that if the literacy test ban is not extended, millions of voting age Americans—blacks and Spanish-speaking citizens disproportionately—would again be excluded from participating in our democratic system, the same system that in the first instance failed in its responsibility to provide all Americans alike with the most fundamental of learning skills, the capacity to read and write.

And in closing, Mr. Chairman, I urge my colleagues as fervently as possible to support H.R. 6219. By so doing, we move ahead an important increment toward vindicating a national promise so long ago made, so long now overdue.

Mr. BURKE of Massachusetts. Mr. Chairman, I rise to support the extension of the Voting Rights Act of 1965. I would like you to know that one of my first legislative actions in the 94th Congress was to cosponsor H.R. 4002, a bill from which H.R. 6219 grew and upon which it improved. This proposal was designed to extend certain provisions of the Voting Rights Act of 1965 for 10 years and to create a permanent ban against certain prerequisites to voting. Too often, these literacy tests and devices have been used as a discriminatory weapon against certain minorities. A vote against extending the Voting Rights Act of 1965 would create a situation conducive to the regeneration of these abuses.

It is essential to the livelihood of our democratic process that every citizen be afforded the opportunity to vote. This is a fundamental part of our civil rights. Too often, literacy tests have had discriminatory effects as State and county educational possibilities were inferior for members of minorities. A nationwide, permanent ban on these tests would protect the voting rights of citizens where this imposition on minorities would result in great inequities in our electoral process. The permanency of the ban must be stressed as provisions for tests or devices remain on the books of 14 States in our country. Therefore, the extension of the Voting Rights Amendments of 1965 must be ongoing so that these States will not be permitted to enforce literacy tests as prerequisites to registration and voting.

The positive effects of the Voting

Rights Act of 1965 are evident and speak for themselves. The progress of minority political representation has become increasingly obvious. However, significant deficiencies in minority registration and, therefore, political participation still exist. We must work to amend the inequities in our political process in order to insure the rights of all citizens.

Mr. ANDERSON of California. Mr. Chairman, I rise in support of H.R. 6219, which amends and extends the Voting Rights Act of 1965.

Ten years ago, when the original Voting Rights Act was first passed, it was designed to meet the needs of minorities who were being denied the right to vote. Since then, the situation has improved greatly in those areas which the act was designed to effect. Yet the need for the bill is still evident, for new areas have been discovered which need the special protection and benefits which the bill, as originally drafted, does not address.

In the 1974 congressional election, 44.7 percent of the total population exercised their right to vote. Among black citizens, who were the major beneficiaries of the original Voting Rights Act, voter participation was only 33.8 percent. In the South, in 1974, where many of the first publicized instances of voting injustice took place, there was only a 5-percent difference between black and white registration: A marked improvement over 1966, when there was an 11 percentage point difference.

However, there are other minority groups in the United States which are lagging behind in voter registration. According to the Social and Economic Statistics Administration to the U.S. Department of Commerce, only 22.9 percent of the total voting age population of Americans of Spanish descent were registered to vote in 1974.

Some of this alarmingly low rate can be laid to the fact that many Americans of Spanish descent—Mexican Americans, Puerto Ricans, Cubans, and those from South America—have not yet become citizens. However, much of the reason can also be caused by language difficulties, unfamiliarity with voting laws, de facto and de jure discrimination, and a history of neglect on the part of the United States toward Americans of Spanish descent.

Many of the same difficulties beset other minority groups as well. American Indians and Alaskan Natives have, for the most part, been ignored by Federal voters' rights programs. Asian Americans face many of the same problems. While many people feel safe to say that discrimination and prejudice against Asian Americans is a thing of the past, yet the problems facing these people still continue. And the recent outcry against the arrival of Vietnamese refugees, although motivated by many factors beside racial prejudice, shows that bigotry against Asians is far from a thing of the past in the United States.

In the congressional district I represent, 20 percent of the total population is of Spanish descent—primarily Mexican American. Blacks comprise 10 percent of the population, and there is also a sizable Asian American community, made up of Japanese, Filipino, Samoan, Korean, and Guamanian Americans. In the 1974 election, only 31.3 percent of the population voted in the congressional election.

Mr. Chairman, if we are to increase the voter participation of minority Americans, strong congressional action is needed. We must insure that language and cultural differences do not become stumbling blocks on the way to the polls. H.R. 6219 is a step in this direction, because it recognizes the special needs of many American citizens in exercizing of one of our basic rights; the right to vote.

For these reasons, I urge that H.R. 6219 be adopted—without weakening amendments.

Ms. ABZUG. Mr. Chairman, I rise in support of H.R. 6219, the Voting Rights Act extension. The original Voting Rights Act has been instrumental in paving the way for the politically disadvantaged to secure enforcement of their right to vote. Enforcement of the law has enfranchised many black people in our Nation who, through the use of discriminatory practices, were denied equal opportunity to register and vote. However, the task is far from complete. H.R. 6219, sponsored by my distinguished colleague, Mr. EDWARDS of California, would provide for a sorely needed extension of the act, as well as extending its coverage to language minorities.

The original Voting Rights Act contained a section 5 preclearance provision, which insured protection and assistance by the Federal Government for the politically weak and suppressed citizens who were unable to attain justice through State case-by-case litigation. In this section lies the strength of the Voting Rights Act, for it facilitates the enactment and protection of the act. However, section 5 did not become widely used until 1971. Thus it is crucial that this provision be extended, as only 4 years of such protection is too short a time to alleviate all discriminatory practices. H.R. 6219 does extend and strengthen this section.

I would like to point out another area of concern to all those present who feel the need, as I do, to expand and extend the outstanding coverage of minorities which the Voting Rights Act has accomplished thus far. Notable areas of progress under the act have been in increased minority registration, voter turnout, and in the increased number of minority elected officials. It is now time to expand this coverage to other disadvantaged groups. H.R. 6219 accomplishes this through its inclusion of "language minorities," specifically American Indian, Asian-Americans, Alaskan Natives, and people of Spanish heritage. This coverage will secure the right of these peoples to assert their political strength through their increased ability to participate in our electoral process, a right all disadvantaged groups should have.

H.R. 6219 includes the provisions essential to the continued success and effectiveness of any voting rights legislation. To reiterate, these provisions are the section 5 preclearance provisions, the 10-year extension of the act's coverage, inclusion of language minorities, the addition of jurisdictions in which there exists in illiteracy rate higher than the national average, and the permanent nationwide ban on literacy tests.

Opposition to an extension of the Voting Rights Act may exist in part because of a mistaken impression that the act is a great burden imposed on a particular region of the country solely by representatives whose districts are unaffected. I wish to note, however, that my own district is one of those affected by this legislation: It is located in one of the three counties of New York which are covered by sections 4 and 5 of the act. It is not despite but because of our experience under the act that I support H.R. 6219 and oppose the Wiggins substitute amendment.

Most jurisdictions covered by sections 4 and 5 never actually sought an exemption from the act. The attorney general of New York, however, did go to court to seek just such an exemption from New York, Kings, and Bronx Counties in New York City. The courts applied the same standards to us in New York as are applied to covered jurisdictions in the South. After 2 years of litigation and three appeals to the Supreme Court, New York was denied an exemption. The case was lost because of evidence introduced by the New York NAACP which showed that our literacy test, like Virginia's, was adopted for a discriminatory purpose, and that minority voters in New York, like those in Gaston County, N.C., were more likely to be illiterate because they had attended inferior schools.

Section 5 has been applied to a large number of State and local laws in New York. Last year we submitted to the Attorney General under that provision the new senate, assembly, and congressional district lines in the three covered counties. The Attorney General disapproved many of these lines. Using the same standards applied to submissions from Southern States, the Attorney General found that the lines divided up concentrations of minority voters and placed the fragments in districts with white majorities. As a result there were large numbers of nonwhite voters in white districts, but very few white voters in nonwhite districts. The Attorney General's decision required the Governor to call a special session of the State legislature, which adopted new lines more fair to all.

We have not found that compliance with the section 5 preclearance procedures is a serious or significant problem. In fact, knowledge that we are covered by section 5 has had the laudable effect of detering last minute changes in election laws. I have been advised by civil rights lawyers that in numerous occasions during the last several years they have been able to persuade the city board of elections to refrain from taking potentially discriminatory steps by invoking the act. None of this offends the dignity of the city or the State.

For the past 2 years New York City has been providing all voting and regis-

tration materials in both Spanish as well as English. This is a result of a court decision in Torres against Sachs brought by the Puerto Rican Legal Defense and Educational Fund. The court found that using English-only materials violated two provisions of the Voting Rights Act, that prohibiting the use of literacy tests and that banning English language literacy tests for Puerto Ricans. We have found that providing dual language materials is not only entirely workable, but are substantial assistance to many Spanish speaking voters in New York. Title III of H.R. 6219 would extend this type of requirement to the entire country without need for further litigation.

So it is as a representative of a jurisdiction covered by the Voting Rights Act that I speak to you today and urge you to renew the act for 10 years by adopting H.R. 6219. Time has been short since the original Voting Rights Act of 1965 was enacted—a mere 10 years. The time has been much shorter in which the essential section 5 preclearance provision have been properly and frequently used, and again, it was only in 1970 that the act was expanded, with the temporary ban on literacy tests included.

I hope that all of my distinguished colleagues will join me in full support of all the provisions of the bill H.R. 6219, and oppose any attempts to alter the substantial strength and extended coverage of that bill.

Mr. EDWARDS of California. Mr. Chairman, I have no further requests for time.

Mr. BUTLER. Mr. Chairman, I have no further requests for time.

Mr. EDWARDS of California. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. STUDDS, Chairman pro tempore 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. 6219) to amend the Voting Rights Act of 1965 to extend certain provisions for an additional 10 years, to make permanent the ban against certain prerequisites to voting, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks during general debate on the bill, H.R. 6219.

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

There was no objection.

MAKING SUPPLEMENTAL APPROPRIATIONS, FISCAL YEAR 1975

Mr. MAHON. Mr. Speaker, I move to take from the Speaker's table the bill H.R. 5899 with the remaining amendment in disagreement and move that the House recede from its disagreement to the amendment of the Senate No. 107 and concur therein with an amendment, as follows:

In lieu of the matter proposed in said amendment insert the following:

"RAIL TRANSPORTATION IMPROVEMENT AND EMPLOYMENT

"For administrative expenses and preparation of plans to provide assistance to financially distressed railroads for repairing, rehabilitating, and improving railroad roadbeds and facilities, $5,000,000 to remain available until December 31, 1976: *Provided, however,* That these funds shall be available only upon the enactment of authorizing legislation."

The Clerk read the title of the bill.

The SPEAKER. The Clerk will report the Senate amendment to the text of the bill.

The Clerk read the Senate amendment, as follows:

Senate Amendment No. 107, page 39, line 15, insert:

"RAIL TRANSPORTATION IMPROVEMENT AND EMPLOYMENT

"For payment of financial assistance to assist railroads by providing funds for repairing, rehabilitation, and improving railroad roadbeds and facilities, $700,000,000 of which not to exceed $7,000,000 shall be available for administrative expenses of the Secretary to remain available until December 31, 1976: *Provided, however,* That these funds shall be available only upon enactment of authorizing legislation."

The SPEAKER. The Clerk will report the motion offered by the gentleman from Texas (Mr. MAHON).

The Clerk read as follows:

MOTION OFFERED BY MR. MAHON

Mr. MAHON moves to take from the Speaker's table the bill H.R. 5899 with the remaining amendment in disagreement and move that the House recede from its disagreement to the amendment of the Senate numbered 107 and concur therein with an amended, as follows: In lieu of the matter proposed in said amendment insert the following:

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The SPEAKER. The Chair recognizes the gentleman from Texas (Mr. MAHON) for 30 minutes.

Mr. MAHON. Mr. Speaker, when the $5 billion emergency employment appropriations bill passed the House and went to the Senate, the Senate added $700 million for grants to railroads—not loans, but grants to railroads. This was the major controversy in conference on the jobs bill.

We had a rollcall vote in the House on this item, and the position of the House that we not provide the $700 million for grants to railroads was overwhelmingly sustained. It was sustained to a considerable extent on the basis that there was no enabling legislation—no authorization for the program whatever.

So the emergency employment bill was approved by the House and the Senate and sent to the President without the unauthorized $700 million program of grants to railroads.

Then the other body added on to the second supplemental appropriation bill the same amount, providing the $700 million for the railroads. We went to conference and brought back in disagreement the $700 million item. The House voted on this amendment again and turned it down by 215 votes to 136 votes.

Therefore, the bill was returned to the other body on the day that we recessed, on the 22d of May. The other body refused to accept the House provision and voted, about 46 to 16, to insist upon the $700 million of unauthorized grant money to the railroads.

The situation now is that this bill must go to the President promptly. It must be enacted. It provides about $15 billion for the fiscal year which ends June 30 and it is hung up on this one item.

The bill, as approved by both bodies, provides for paying employees of the Federal Government an additional $1.7 billion. It provides $752 million for veterans. It provides $884 million for food stamps. It provides $176 million for child nutrition. It provides $5 billion for unemployment compensation. For public assistance, it provides $1.7 billion. It provides $1.7 billion to cover the cost of providing $50 to every recipient of social security benefits as required by the tax bill.

Mr. Speaker, the urgency of this matter is that funds are already exhausted for certain veterans' payments, and funds will very soon run out for many of these other programs to which I have referred. There is a great urgency that we pass this legislation and send it to the President.

There are 45,000 veterans whose payments are now being delayed. The next two payment cycles will be for 300,000 veterans and will require some $100 million, for which funds are not available, but will be made available in this bill.

Then I mentioned unemployment compensation. Loans to certain States for unemployment compensation benefits are in serious jeopardy. Three States, Michigan, Vermont, and Connecticut, have exhausted their resources and must receive loans from the Federal Government.

The language to which we are objecting in the Committee on Appropriations, which was put in the bill by the Senate, is the following:

For payment of financial assistance to assist railroads to provide funds for repairing, rehabilitating, and improving railroad roadbeds and facilities, $700 million, of which not to exceed $7 million shall be available for administrative expenses of the Secretary to remain available until December, 1976: *Provided, however,* That these funds shall become available only upon the enactment of authorizing legislation.

Mr. Speaker, my motion does not provide any $700 million for the rehabilitation of railroads. It does not provide any money for actual rehabilitation of railroads. It simply provides for administrative expenses and for planning in the event some kind of authorization is passed. There is no money for construc-

the Government put in a situation where it would be required to cover bad loans, but many of our good livestock producers have been left in a terrible financial bind by forces beyond their control during the course of the past 2 years. I am confident that these amendments to the emergency livestock credit program will allow many of these producers to work their way out of this period of economic adversity.

Therefore, Mr. Speaker, I urge my colleagues to vote for passage of the conference report on this bill. I am confident that it will have the approval of the President, and it is supported by the livestock industry and by the agricultural community.

S. 1236 is needed to help in the financing of the production of livestock throughout the Nation, and it deserves to be enacted into law.

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

Mr. WAMPLER. I yield to the gentleman from South Dakota.

Mr. PRESSLER. Mr. Speaker, I would like to identify myself with the remarks of the distinguished gentleman from Virginia (Mr. WAMPLER) and also with the remarks of the gentleman from Minnesota (Mr. BERGLAND).

I would like to point out that one of the complaints that my office has received most often concerns the difficulty of our farmers in getting loans. This involves many farmers in eastern South Dakota. They do not seek handouts or additional aid as much as they seek loans and assistance to carry them through this time of difficulty.

Mr. Speaker, our country grants loans to foreign governments and to overseas operations on 20- and 30-year bases and at interest rates lower than we grant to some of our own businessmen and farmers and those in other categories.

Mr. Speaker, I believe that this legislation would help to preserve our agriculture industry and would help the people who wish to borrow money in order to carry them through this very difficult period.

Mr. Speaker, I am very much in support of this legislation, and I urge the conference report be agreed to. I thank the gentleman for yielding.

Mr. WAMPLER. Mr. Speaker, I have no further requests for time.

Mr. BERGLAND. Mr. Speaker, I have no further requests for time.

The SPEAKER. Without objection, the previous question is ordered on the conference report.

There was no objection.

The conference report was agreed to.

A motion to reconsider was laid on the table.

VOTING RIGHTS ACT EXTENSION

Miss JORDAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6219) to amend the Voting Rights Act of 1965 to extend certain provisions for an additional 10 years, to make permanent the ban against certain prerequisites to voting, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentlewoman 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 further consideration of the bill H.R. 6219, with Mr. BOLLING in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the committee rose on yesterday, all time for general debate on the bill had expired.

Pursuant to the rule, the Clerk will now read the bill by title.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SEC. 101. Section 4(a) of the Voting Rights Act of 1965 is amended by striking out "ten" each time it appears and inserting in lieu thereof "twenty".

SEC. 102. Section 201(a) of the Voting Rights Act of 1965 is amended by—

(1) striking out "Prior to August 6, 1975, no" and inserting "No" in lieu thereof; and

(2) striking out "as to which the provisions of section 4(a) of this Act are not in effect by reason of determinations made under section 4(b) of this Act." and inserting in lieu thereof a period.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WIGGINS

Mr. WIGGINS. 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. WIGGINS: In H.R. 6219 strike out all after the enacting clause and insert in lieu thereof the following: That this Act may be cited as "The Voting Rights Extension Act of 1975".

SEC. 2. Section 4(a) of the Voting Rights Act of 1965 is amended by striking out "ten years" each time is appears and inserting in lieu thereof "eleven-year-and-180-day period".

SEC. 3. Effective February 6, 1977:

(a) Section 4 of the Voting Rights Act is amended to read as follows:

"SEC. 4. (a) To assure that the right of citizens of the United States to vote is not denied or abridged on account of race or color or national origin, the requirements of section 5 shall apply to any State with respect to which the determinations have been made under subsection (b) or in any political subdivision with respect to which such determinations have been made as a separate unit, unless the United States District Court for the District of Columbia in an action for a declaratory judgment brought by such State or subdivision against the United States has determined that no voting qualification, or prerequisite to voting or standard, practice, or procedure with respect to voting is in effect during or preceding the filing of the action where such qualification, prerequiste, standard, practice, or procedure does have or is likely to have the purpose or the effect of denying or abridging the right to vote on account of race or color or national origin: *Provided,* That for purposes of this section no State or political subdivision shall be determined to have engaged in the use of such qualifications, prerequisites, standards, practices, or procedures for the purpose or with the effect of denying or abridging the right to vote on account of race or color or natioal origin if (1) incidents of such use have been few in number and have been promptly and effectively corrected by State or local action, (2) the continuing effect of such incidents has been eliminated, and (3) there is no reasonable probability of their recurrence in the future.

"An action pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall lie to the Supreme Court. The Court shall retain jurisdiction of any action pursuant to this subsection until determinations are made by the Director of the Census pursuant to subsection (b) following the next general federal election after the filing of the action and shall reopen the action upon motion of the Attorney General alleging that such qualifications, prerequisites, standards, practices, or procedures have been used for the purpose or with the effect of denying or abridging the right to vote on account of race or color, or national origin.

"If the Attorney General determines that he has no reason to believe that any such qualifications, prerequisites, standards, practices, or procedures are in effect or are likely to be effective with the purpose or with the effect of denying or abriding the right to vote on account of race or color or national origin, he shall consent to the entry of such judgment.

"(b) The provisions of subsection (a) shall apply in any State or in any political subdivision of a state for which the Director of the Census determines that discrete groups of racial or language minority citizens of voting age comprise more than 5 per centum of the voting age population of such State or political subdivision and that less than 50 per centum of such separate group of racial or language minority citizens of voting age voted in the most recent general federal election. The provisions of subsection (a) shall continue in effect until the Director of the Census makes determinations pursuant to this subsection following the next general federal election after which time such provisions shall only apply based upon determinations pertaining to the most recent general federal election at that time. The Director of the Census is directed to make determinations pursuant to this subsection to the greatest degree possible within 60 days after a general federal election is held.

"A determination or certification of the Attorney General or of the Director of the Census under this section or under section 6 or section 13 shall not be reviewable in any court and shall be effective upon publication in the Federal Register.

"(c) As used in this Act, the phrase 'general federal election' shall mean any general election held solely or in part for the purpose of selecting or electing any candidate for the office of President, Vice President, presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, Guam, or the Virgin Islands, or Resident Commissioner of the Commonwealth of Puerto Rico.

"(d) As used in this section, the phrase 'racial or language minority citizens' means citizens of the United States who are Negroes or persons of Spanish heritage as those terms are defined by the Buerau of the Census."

(b) Section 5 of the Voting Rights Act is amended to read as follows:

"SEC. 5. Whenever a State or political subdivision with respect to which the prohibitions set forth in section 4(a) based upon determinations made under section 4(b) are in effect shall enact or seek to administer any

voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting such State or subdivision may institute an action in the United States District Court for the District of Columbia for a declaratory judgment that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color or national origin, and unless and until the court enters such judgment no person shall be denied the right to vote for failure to comply with such qualification, prerequisite, standard, practice, or procedure: *Provided,* That such qualification, prerequisite, standard, practice, or procedure may be enforced without such proceeding if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within sixty days after such submission, or upon good cause shown, to facilitate an expedited approval within sixty days after such submission, the Attorney General has affirmatively indicated that such objection will not be made. Neither an affirmative indication by the Attorney General that no objection will be made, nor failure to object, nor a declaratory judgment entered under this section shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure. In the event the Attorney General affirmatively indicates that no objection will be made within the sixty-day period following receipt of such a submission, the Attorney General may reserve the right to reexamine the submission if additional information comes to his attention during the remainder of the sixty-day period which would otherwise require objection in accordance with this section. Any action under this section shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall lie to the Supreme Court."

SEC. 4. Section 3 of the Voting Rights Act is amended by—

(1) striking out "fifteenth amendment" each time it appears and inserting in lieu thereof "fourteenth amendment or fifteenth amendment";

(2) striking out "race or color" each time it appears and inserting in lieu thereof "race or color or national origin";

(3) striking out "test or device" each time it appears and inserting in lieu thereof "voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting";

(4) striking out "tests or devices" each time it appears an inserting in lieu thereof "such voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting";

(5) striking out "except that neither" and inserting in lieu thereof "or upon good cause shown to facilitate an expedited approval within sixty days after such submission, the Attorney General has affirmatively indicated that such objection will not be made. Neither an affirmative indication by the Attorney General that no objection will be made, nor";

(6) adding at the end thereof the following: "In the event the Attorney General affirmatively indicates that no objection will be made within the sixty-day period following receipt of such a submission, the Attorney General may reserve the right to reexamine the submission if additional information comes to his attention during the remainder of the sixty-day period which would otherwise require objection in accordance with this section.";

(7) striking out "deem appropriate" and inserting in lieu thereof "deem appropriate, but in no event after determinations are made by the Director of the Census pursuant to Section 4(b) following the next general federal election from the date of the order,";

(8) striking out "deems necessary." and inserting in lieu thereof "deems necessary, but in no event after determinations are made by the Director of the Census pursuant to Section 4(b) following the next general federal election from the date of the order.";

(9) striking out "different from that in force or effect at the time the proceeding was commenced", effective February 6, 1977; and

(10) striking out "Attorney General" the first three times it appears and inserting in lieu thereof the following "Attorney General or an aggrieved person".

SEC. 5. Section 201(a) of the Voting Rights Act of 1965 is amended by—

(1) striking out "Prior to August 6, 1975, no" and inserting "No" in lieu thereof; and

(2) striking out "as to which the provisions of section 4(a) of this Act are not in effect by reason of determinations made under section 4(b) of this Act." and inserting in lieu thereof a period.

SEC. 6. Section 14 of the Voting Rights Act of 1965 is amended by adding at the end thereof the following new subsection:

"(e) In any action or proceeding to enforce the voting guarantees of the fourteenth or fifteenth amendment, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.".

SEC. 7. Title II of the Voting Rights Act of 1965 is amended by adding at the end thereof the following new section:

"SEC. 207. (a) Congress hereby directs the Director of the Census forthwith to conduct a survey to compile registration and voting statistics: (i) in every State or political subdivision for every general Federal election after January 1, 1974; and (ii) in every State or political subdivision for any election designated by the United States Commission on Civil Rights. Such surveys shall elicit statistically significant estimates of the citizenship, the race or color, and national origin, of persons of voting age and the extent to which such persons are registered to vote and have voted in the elections surveyed.

"(b) In any survey under subsection (a) of this section no person shall be compelled to disclose his political party affiliation, or how he voted (or the reasons therefor), nor shall any penalty be imposed for his failure or refusal to make such disclosures. Every person interrogated orally, by written survey or questionnaire, or by any other means with respect to such information shall be fully advised of his right to fail or refuse to furnish such information except with regard to information required by subsection (a), with regard to which every such person shall be informed that such information is required solely to enforce nondiscrimination in voting.

"(c) The Director of the Census shall, at the earliest practicable time, report to the Congress the results of every survey conducted pursuant to the provisions of subsection (a) of this section.

"(d) The provisions of section 9 and chapter 7 of title 13 of the United States Code shall apply to any survey, collection, or compilation of registration and voting statistics carried out under subsection (a) of this section."

SEC. 8. Section 11(c) of the Voting Rights Act of 1965 is amended by inserting after "Columbia," the following words: "Guam, or the Virgin Islands,".

SEC. 9. Section 5 of the Voting Rights Act of 1965 is amended—

(1) by striking out "except that neither" and inserting in lieu thereof the following: "or upon good cause shown, to facilitate an expedited approval within sixty days after such submission, the Attorney General has affirmatively indicated that such objection will not be made. Neither an affirmative indication by the Attorney General that no objection will be made, nor"; and

(2) by inserting immediately after the words "failure to object" a comma; and

(3) by inserting immediately before the final sentence thereof the following: "In the event the Attorney General affirmatively indicates that no objection will be made within the sixty-day period following receipt of a submission, the Attorney General may reserve the right to reexamine the submission if additional information comes to his attention during the remainder of the sixty-day period which would otherwise require objection in accordance with this section.".

SEC. 10. Section 203 of the Voting Rights Act of 1965 is amended by striking out "section 2282 of title 28" and inserting "section 2284 of title 28" in lieu thereof.

SEC. 11. Title III of the Voting Rights Act of 1965 is amended to read as follows:

"TITLE III—EIGHTEEN-YEAR-OLD VOTING AGE

"ENFORCEMENT OF TWENTY-SIXTH AMENDMENT

"SEC. 301. (a)(1) The Attorney General is directed to institute, in the name of the United States, such actions against States or political subdivisions, including actions for injunctive relief, as he may determine to be necessary to implement the twenty-sixth article of amendment to the Constitution of the United States.

"(2) The district courts of the United States shall have jurisdiction of proceedings instituted under this title, which shall be heard and determined by a court of three judges in accordance with section 2284 of title 28 of the United States Code, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing and determination thereof, and to cause the case to be in every way expedited.

"(b) Whoever shall deny or attempt to deny any person of any right secured by the twenty-sixth article of amendment to the Constitution of the United States shall be fined not more than $5,000 or imprisoned not more than five years, or both.

"DEFINITION

"SEC. 302. As used in this title, the term 'State' includes the District of Columbia."

SEC. 12. Section 10 of the Voting Rights Act of 1965 is amended—

(1) by striking out subsection (d);

(2) in subsection (b), by inserting "and section 2 of the twenty-fourth amendment" immediately after "fifteenth amendment"; and

(3) by striking out "and" the first time it appears in subsection (b), and inserting in lieu thereof a comma.

SEC. 13. Section 6 of the Voting Rights Act of 1965 is amended by striking out "fifteenth amendment" each time it appears and inserting in lieu thereof "fourteenth or fifteenth amendment".

SEC. 14. Section 2, the second paragraph of section 4(a), and sections 4(d), 5, 6, and 13 of the Voting Rights Act of 1965 are each amended by inserting immediately after "on account of race or color" each time it appears "or national origin".

Mr. WIGGINS (during the reading). Mr. Chairman, I ask unanimous consent that my amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

Mr. WIGGINS. Mr. Chairman, the

amendment which we shall now consider is my amendment in the nature of a substitute to the committee bill. It has been printed in the RECORD. It has been circulated to all of the Members, has been the subject of considerable discussion, both in general debate and elsewhere, and the full reading of the bill, under those circumstances, is unnecessary.

Mr. Chairman, the principal issue which is to be resolved this afternoon is whether or not this Congress shall vote to perpetuate a bill which is inherently unfair or whether it will seize this opportunity to enact a strong voting rights bill which has elements of fairness in it.

It is my belief that the substitute offered to the Members now is such a constructive alternative proposal.

Mr. Chairman, I want the Members to know that they have a choice this afternoon. The choice is this: If they support the committee bill, they will be voting to force six Southern States of this Union to obtain Federal preclearance of any change in their voting laws, practices, or procedures for the next 10 years, because in 1964 they had a literacy test and less than 50 percent total voter turnout, even though in every election since 1964 they may have achieved a voter performance comparable to or better than that of northern jurisdictions.

If the Members support the committee bill, they will be voting to force many other jurisdictions to obtain Federal preclearance of their voting laws and procedures for the next 10 years because in 1972 they may have had a 5 percent language minority amongst their population, an English-only ballot in that election, and less than a 50-percent turnout. If the Members vote to support the committee bill, they will be voting to force the printing of ballots in multiple languages and dialects on the unproved assumption that language minorities are more literate in a language other than English. If the Members vote to support the committee bill, they will be voting to exclude from coverage for the next 10 years large areas of the United States where blacks and browns are concentrated, even though in 1964 and in every election since the black and brown turnout in those jurisdictions has been suspiciously low.

If the Members believe that such a procedure as I have described is fair and rational, then by all means I urge them to vote for the committee bill and against my substitute.

On the other hand, if you believe that the South is deserving of rejoining the Union and not being compelled to ride in the rear of the bus, as it were, you will support my substitute. If the Members believe that voter participation by black and brown minorities is more rationally related to possible discrimination against them than looking to total voter performance by all voters, then by all means you should support my substitute.

If you believe that voter performance in 1976 and each succeeding general election is a more rational basis for presuming voter discrimination for the next 10 years than continued reliance upon long-abandoned voter practices in existence in 1964, you will support my substitute.

Finally, if you believe that the requirement of including Indians, Alaskan Natives, and Asian Americans under this bill makes no sense at all, and indeed, imposes an impossible administrative burden upon many jurisdictions, then you will support my substitute.

Members of the House, I appeal to your sense of fairness to all States of the Union and all citizens, black, white, brown, or any other ethnic language or racial minority. I appeal to your sense of fairness and to your good commonsense.

My substitute is not regional legislation. It requires Federal preclearance if any jurisdiction includes 5 percent or more of blacks or browns within its total population; and if 50 percent or less of those specific minorities failed to vote in each general election commencing in 1976. If the minorities turn out, and that is the purpose of this bill, the jurisdiction is not covered. If they do not, coverage applies subject, of course, to the right of that jurisdiction to bail out if low voter turnout is caused by nondiscriminatory factors.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. WIGGINS was allowed to proceed for 2 additional minutes.)

Mr. WIGGINS. Coverage under my substitute will attach or not, based upon voter performance of the minorities involved automatically every 2 years, after an analyses of the voter results in that general election.

I would ask the Members: Is that not what the Voter Rights Act seeks to achieve, better participation by minority citizens subject to a recent history of discrimination? Of course it is.

My amendment achieves the objectives of all of us much more rationally than does the committee bill. I earnestly urge its support. It is a strong, worthy, commonsense voting rights proposal.

Mr. Chairman, I submit a section-by-section analysis:

SECTION-BY-SECTION ANALYSIS

Section 2: Section 2 extends the special coverage provisions of the Act (§§ 4, 5, 6 and 8) until February 5, 1977 by amending the ten year period currently in § 4 to read "eleven-year-180-day period". This compares with a ten year extension of the special provisions until August 6, 1985 as accomplished by Sec. 101 of H.R. 6219.

The reason that Section 2 of the substitute has a short extension is that a complete revision of the § 4 trigger is made in Section 3(a) of the bill based upon data from the 1976 presidential election. Until such data becomes available, an extension of the current coverage seems appropriate.

Section 3: This section is the heart of the bill. In two separate divisions, Sections 4 and 5 of the Voting Rights Act are revamped to produce bold, new, and rational legislation.

(A) Division A amends § 4 of the Act effective February 6, 1977. After that time the following basic changes will occur:

(1) A new trigger will become operative covering States and political subdivisions based upon minority voting turnout in the most recent general federal election. Whenever a jurisdiction has separately at least 5 percent black or Spanish citizens and less than 50 percent of such persons voted in the most recent general federal election, then the special coverage provisions of the Act will apply.

(2) However, coverage will only be dependent upon the most recent general federal election so that if a jurisdiction is able to raise its minority voter turnout above 50 percent, then coverage will cease until such time as the minority voter turnout falls below 50 percent.

(3) To prevent the trigger from being unconstitutionally overbroad a jurisdiction may file an action in the United States District Court for the District of Columbia to "bail out" if it can prove that no law or practice has *or is likely to have* the effect of denying or abridging the voting rights of any citizen on account of race, color or national origin. To prevent a jurisdiction from repealing its laws, obtaining a declaratory judgment, and then reenacting the discriminatory laws, a precaution is provided: The court retains jurisdiction after a successful bailout until after the next general federal election during which time the Attorney General can reopen the action to re-cover the jurisdiction.

This mechanism is fair yet practical. The trigger encourages states to turn out the minority vote and to improve election laws and practices, if early bailout is desired. While it is true that a jurisdiction is automatically bailed out once it meets the 50 percent test in a subsequent election, special coverage will be imposed if at any future time the minority vote falls below 50 percent. Also, as will be developed, holstering the remedies available in §§ 3 and 5 of the Act will provide an effective alternative for coping with any discriminatory voting laws passed while a jurisdiction is not covered by the trigger.

Under the present Act the trigger in § 4 (b) encompasses all jurisdictions in which less than 50 percent of all persons of voting age voted in the 1964 and 1968 presidential elections and in which a "test or device" was empolyed. Section 4 (a) of the current Act provides a bailout which is more apparent than real with respect to many of the covered jurisdictions. To effectively bail out of the special coverage provisions of the Act, a jurisdiction must show that for the past 10 years (20 years as extended by H.R. 6219) it has not used a test or device with the purpose or effect of denying or abridging the right to vote on account of race or color (or in contravention of the guarantees set forth in § 4 (f) (2) as added by H.R. 6219). However, recent Supreme Court cases have made this bailout almost *per se* impossible for states which had inferior schools for minorities and used a literacy test in the early 1960's by concluding that the effect of such literacy tests when coupled with the educational disparity automatically results in discriminatory application of such tests.

This trigger mechanism is anachronistic and possibly unconstitutional in that it is not rationally related to the actual denial of minority voting rights; by focusing on literacy tests in existence prior to 1965 without taking account of present discrimination the current Act has given the covered jurisdictions no incentive to improve their voting laws.

The trigger suggested in § 3 of this substitute remedies the deficiencies of the trigger in the present Act by encouraging states to improve their voting laws so that they may bail out via a declaratory judgment and to encourage a high minority voter turnout in subsequent elections. In this manner current problems are addressed and affirmative solutions are encouraged.

(B) This division amends § 5 of the Voting Rights Act effective February 6, 1977, to produce the following changes:

(1) The power of the Attorney General

under § 5 to preclear state voting laws is expanded to require preclearance of all existing voting laws of the jurisdiction regardless of the time they were placed on the books. Under the current Act as extended by H.R. 6219, the Attorney General is restricted to reviewing only those voting laws that are different from laws on the books when the jurisdiction was covered. This deficiency in the current Act has encouraged states not to change their voting laws and has created a problem of entrenched discrimination whereby discriminatory laws that were on the books prior to the date of coverage of a jurisdiction are invulnerable to attack by the Attorney General under the Voting Rights Act. Section 3 (b) of the substitute remedies this problem, as noted above, by allowing the Attorney General to review all laws; thus if a discriminatory reapportionment plan were implemented while a jurisdiction was not covered, the Attorney General could invalidate that reapportionment plan at a later date if the jurisdiction becomes subject to the special coverage provisions of the Act.

(2) When a voting practice is submitted for preclearance to the Attorney General, the Attorney General is mandated to examine both the present and probable future effect that such law will have. Under the current Act the Attorney General is authorized to examine only the present purpose and effect of the law. Section 3 (b) of the substitute thus has the advantage of eliminating laws which are likely to have a discriminatory impact although the immediate impact of such laws has not yet been felt.

(3) Section 3 (b) of the substitute mandates the Attorney General to examine voting laws to see if they deny or abridge the right to vote on the basis of race or color or national origin. The current Act as extended by H.R. 6219 will only permit examination for discrimination on the basis of race or color or in contravention of the guarantees set forth in § 4 (f) (2) of H.R. 6219. The coverage afforded by § 3 (b) of the substitute is more progressive and equitable in so far as it prohibits discrimination against any ethnic or national origin group. Unfortunately, H.R. 6219 does not protect the voting rights of ethnic groups who are not American Indian, Alaskan Native, Asian American or persons of Spanish heritage. While the trigger of the Act must be geared to cover racial minorities which have been discriminated against, the relief afforded by the Act can be and should be extended wherever discrimination in fact surfaces. The substitute accomplishes this laudable objective.

Section 4: This section amends § 3 of the Voting Rights Act in ten separate ways, all of which are effective immediately except for paragraph (9) which is effective February 6, 1977. The thrust of these amendments is to immediately expand the relief available under § 3 of the Voting Rights Act by incorporating provisions made in §§ 203, 205 and 401 of H.R. 6219. These provisions extend the coverage of § 3 to allow an aggrieved person to receive the special coverage remedies of the Voting Rights Act as relief in a suit commenced pursuant to the fourteenth or fifteenth amendments to redress the denial or abridgement of voting rights on the basis of race or color or in contravention of the guarantees set forth in § 4 (f) (2). Under the current Act only the Attorney General may invoke the relief of § 3 to redress a denial or abridgment of the right to vote on account of race or color in violation of the fifteenth amendment. Section 4 of the substitute improves upon these provisions in H.R. 6219 by allowing an aggrieved person to invoke these special remedies if the right to vote is denied or abridged on account of race or color or national origin in violation of the fourteenth or fifteenth amendments. Furthermore, the court is authorized to suspend and retain jurisdiction of all voting qualifications, prerequistes to voting, standards, practices, or procedures with respect to voting to the extent they have denied or abridged the right to vote on account of race or color or national origin.

This policy is in contradistinction to H.R. 6219 which denies this relief to certain discreet ethnic minorities that are not of a specific national origin group. To reiterate, while the trigger must be narrowly drawn to accommodate evidence of discrimination, once a voting practice is under review, if discrimination is detected in any form it should be obliterated.

Effective February 6, 1977, the coverage of § 3 is expanded consistent with the expansion of the § 4 trigger, effectuated by § 3(a) of the substitute, to allow the court to strike down and/or retain jurisdiction of any voting law regardless of when it was enacted. As previously noted, the present Act as extended by H.R. 6219 fails to deal with this problem of entrenched discrimination.

Finally, to remain consistent with the period of retention of jurisdiction in a bail-out suit under § 4(a) of the new trigger as effectuated by § 3(a) of this substitute, the court is permitted to retain jurisdiction in § 3 of the Act only until determinations are made after the next general federal election.

Section 5: Section 5 is an exact replication of § 102 of H.R. 6219. This section permanently bans all tests and devices as defined in § 201 of the Voting Rights Act.

Section 6: Section 6 is an exact replication of § 402 of H.R. 6219 and provides that a reasonable attorney's fees may be awarded to the prevailing party in a suit under this Act.

Section 7: Section 7 amends title II of the Voting Rights Act to mandate the Director of the Census to conduct surveys to elicit the citizenship, race or color, and national origin of each person of voting age in the nation and the extent to which such persons were registered to vote and in fact voted in the election surveyed. While it is mandatory for a person to supply such information, a precaution is provided to protect the person's right of privacy with respect to other matters: Every person is fully advised of his right to fail or refuse to furnish information concerning his political party affiliation, or how he voted or the reasons therefore, and specific exemption from the penalty provisions normally imposed by statute is provided. However, the normal criminal penalties that are pertinent to other official surveys in order to insure accurate statistics are incorporated with respect to the relevant information elicited in this survey.

Section 403 of H.R. 6219 has a similar survey procedure. However the survey procedure in § 403 applies only in covered jurisdictions, fails to elicit citizenship, and does not make responses mandatory. In light of the reliance of the new trigger in H.R. 6219 and the substitute upon ascertaining the *citizenship* of certain language minorities, it is imperative that any survey gather data to ascertain this factor.

Moreover, since the new trigger set forth in § 3(a) of this substitute is applicable to more than one election, it is necessary to survey all states rather than only the covered jurisdictions. Lastly, it has been convincingly demonstrated in other official surveys that unless responses are made mandatory subject to the sanction of mild penalty, the data received may be statistically insignificant. The case law is clear that in order to establish information necessary to guarantee voting rights that any imposition such a survey may have on the right of privacy must give way to an overriding governmental interest.

Section 8: Section 8 is a replication of § 404 of H.R. 6219 and merely extends the anti-fraud provisions of § 11(c) of the Voting Rights Act to apply to the election of delegates from Guam and the Virgin Islands.

Section 9: Section 9 is a replication of § 405 of H.R. 6219 and codifies a regulation enabling the Attorney General to give affirmative approval to a voting change submitted to him under § 5.

Section 10: Section 10 is a replication of § 406 of H.R. 6219 and corrects an erroneous statutory reference incorporated into the Act in 1970.

Section 11: Section 11 is a replication of § 407 of H.R. 6219 and represents an amendment to recognize the existence of the twenty-sixth amendment to the Constitution as it relates to the 18 year old vote.

Section 12: Section 12 is a replication of § 408 of H.R. 6219 and recognizes case law and the twenty-fourth amendment as it relates to the poll tax.

Section 13: Section 13 incorporates an expansion of § 6 of the Act to embrace the fourteenth amendment. A similar section is set forth in § 205 of H.R. 6219.

Section 14: Section 14 tracks the language of § 206 of H.R. 6219 in extending the protection of the Act to cover ethnic minorities. Consistent with the other provisions of this substitute, such protection is extended to cover all national origin groups rather than the four groups singled out in H.R. 6219.

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

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

Mr. MONTGOMERY. Mr. Chairman, I certainly rise in support of the substitute offered by the gentleman from California (Mr. WIGGINS).

Mr. Chairman, while the Voting Rights Act might have had a place in the recent past, it has long since outlived its usefulness in its present form since the wrongs that brought it about have long since been corrected. If we pass this bill, we will be doing so on the basis of past history and a bygone era and not present circumstances. Extension of the Voting Rights Act without making it apply equally to all parts of the Nation will be a travesty of justice and an insult to our constitutional form of government.

It is our duty today to consider carefully several of the amendments which will be offered to H.R. 6219 to make this more equitable legislation and also make it apply throughout the Nation as all bills should. I refer specifically to amendments by Mr. BUTLER and Mr. WIGGINS, which I shall mention in more detail later on.

I feel that the Voting Rights Act in its present form is discriminatory, because it applies to only one section of the Nation while completely ignoring highly objectionable, if not illegal, voting and registration practices that take place in other parts of America, especially some of our large metropolitan areas.

The bill under consideration makes no allowances for the actions that have been taken in the South to correct alleged wrongdoings in voting practices. We will still be singled out for special treatment and made to atone for our alleged sins for another 10 years. I ask my colleagues, is this justice? Is this due process? Is this equal treatment under the law? I think not and I do not believe there is a member in this body who could suc-

cessfully argue yes to any of the three questions.

Mr. Chairman, I very much dislike sectionalism and have always tried to steer away from it except in those few cases where the interests of the people I represent greatly outweighed the so-called national interests. As it happens, in most cases the interests of the people of Mississippi are the same as the national interests, because we feel very much a part of this Nation and are proud of the contributions we have made to making America great. I regret very much, therefore, that the Congress is now considering legislation that is sectional in nature and what is even worse is that it is punitive in nature also.

Regardless of how distasteful I find this bill and how unnecessary I believe it to be, I am realistic enough to know that an extension of the Voting Rights Act in some form is going to pass the Congress. For that reason I urge my colleagues to consider carefully several amendments which will be offered to make H.R. 6219 more meaningful and more equitable as a piece of national legislation.

As I mentioned earlier, I feel very strongly that we should accept the amendments by Mr. BUTLER of Virginia and Mr. WIGGINS of California. These two amendments will help to restore a sense of balance to the Voting Rights Act and make the administration of the current law more equitable. More importantly, in the case of the Wiggins substitute, the Voting Rights Act will be applied equally throughout the United States.

The most compelling reason to vote for these amendments is that they will allow jurisdictions in the South to come out from under the Voting Rights Act based on their excellent voting practices of the present and provided they continue these practices in the future. Under these amendments, the South will no longer be unnecessarily punished for alleged misdeeds of a bygone era.

Mr. Chairman, I urge my colleagues to vote for these and other amendments that will make the Voting Rights Act national in scope and equitable in administration.

Mr. EDWARDS of California. Mr. Chairman, I rise in opposition to the Wiggins substitute.

Mr. Chairman, under the substitute proposed by the gentleman from California (Mr. WIGGINS) every 2 years after a general election there would have to be a census, and the Bureau of Census would have to review the election results in 3,044 counties of the United States and determine which of these counties had 5 percent black or Spanish heritage population; then census must determine if 50 percent of that 5 percent minority voted; then advise the Attorney General who would in turn tell the jurisdictions, whichever ones also failed the 50-percent test, that they are covered by the Voting Rights Act; this long process would cost approximately $200 million each 2 years according to a May 30, 1975, letter from the Bureau of the Census.

This would go on forever, because the Wiggins substitute itself would go on forever. So we are estimating that it would cost—and these figures are estimates from the Bureau of the Census—$200 million a year every 2 years.

Mr. WIGGINS. Mr. Chairman, if the gentleman will yield just for one question about the cost figures?

The cost estimates, based upon the standard which I have explained in the legislative history, are on the order of $16 million and, in my opinion, the Bureau of the Census has grossly overestimated the costs.

Mr. EDWARDS of California. The gentleman from California (Mr. WIGGINS) believes that the Bureau of the Census has grossly overestimated the costs. The other facts as to the work that would have to be done, I am sure remain. If 51 percent of this minority in any particular jurisdiction voted, there still could be rampant discrimination in the covered jurisdiction because even if 51 percent voted, and they would not be covered by the bill, of course, they would not be covered by the gentleman from California's Mr. WIGGINS', substitute, and it would not protect minorities against gerrymandering to prevent blacks and Spanish-speaking people from holding office. There would be no protection against annexations which serve to dilute minority voting power, no Federal protection against voting intimidation or voting bias.

The only way for a minority person in a district where the minorities voted 50.1 percent to protect their voting rights would be either to go to court, which is an arduous burden, or simply urge the other minorities in the covered jurisdiction not to vote 2 years hence and get the proportion down to below 50 percent. For a brief period of 9 years, this jurisdiction would be covered.

The gentleman from California (Mr. WIGGINS), for whom I have the greatest respect, and with whom I have worked for many years, asked me to study carefully his proposal. I have. The staff lawyers have studied it carefully, and the various civil rights organizations have studied it carefully.

Mr. Chairman, I cannot begin to tell the Members in 5 minutes all that I find, and the staff lawyers find, that is wrong with the substitute. It is not a voting rights bill; it is not a civil rights bill; and if enacted, it would wreck whatever we would have left of the voting rights bill.

The gentleman from California (Mr. WIGGINS) did not present his substitute to the subcommittee when we had an extensive 13 days of hearings. He did not present it to the full committee when we considered the bill for several days in the writeup. The first that any of us saw of it was when he presented it one day in the Committee on Rules. So the substitute has not been subjected to the usual House disciplines of expert witnesses and hearings.

Contrary to what the gentleman from California (Mr. WIGGINS) says, the committee bill is most carefully drawn, and it covers in the United States the problem areas only where there actually is discrimination. That is what the trigger is designed to do. It burdens only those portions of the country where discrimination has been shown with Federal intrusion—and it is Federal intrusion—while the gentleman from California's, Mr. WIGGINS', substitute burdens 50 States and 3,049 counties where no discrimination has been shown to be existed.

Mr. Chairman, I urgently suggest that an "aye" vote on the substitute is an antivoting-rights vote, is an anticivil-rights vote, and would return us to the sad days of 100 years ago when the majority whites said in effect to the black minorities of the United States, "We really do not care about you any more."

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. EDWARDS of California was allowed to proceed for 1 additional minute.)

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

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

Mr. MITCHELL of Maryland. I thank the distinguished chairman of the subcommittee for yielding to me.

I want to associate myself with his remarks. It is the most curious thing in the world to me that we should attempt to change a law that has worked, and worked effectively, as is demonstrated by the presence of black Members of this Congress, black members of State legislative bodies, and black members of county legislative bodies. It is just remarkably curious to me why someone would want to undo an act that has proven its effectiveness.

I would hope that the Wiggins amendment is roundly defeated.

Mr. Chairman, in Baltimore, as we observed the birthday of Dr. Martin Luther King, Jr., the film, "From Selma to Montgomery," was shown. Emotions flooded me. There was a feeling of pride as I saw men, women and children withstand the fury of unleashed police brutality as they demonstrated to achieve the right to vote. There was a feeling of relief and joy when I saw the signing of the Voting Rights Act of 1965. There was a feeling of exultation as I saw men and women walking triumphantly in a building where they were indeed registered to vote.

Black men and women now hold public office at all levels of government, because this Nation found within itself the moral strength to make the Voting Rights Act the law of the land. Gains made by blacks since that time have been unprecedented, especially in the political sphere.

However, my colleagues, we know well that such gains do not mean that all resistance against further political advances for black citizens has ended. The one sure protection that blacks and other minorities will have is the extension of the Voting Rights Act for an additional 10 years.

Of course, there are those who will contend that for the most part voting rights discrimination has been eliminated in this country and that, therefore, the extension of the act is unnecessary. To this position, I can argue that although religious discrimination has just about been eliminated in this country, would it be sensible to amend the first amendment to the Constitution by deleting the words, "respecting an estab-

lishment of religion and prohibiting the free exercise thereof?"

Let us in this House zealously guard against any weakening of the Constitution and let us with equal zeal guard against amendments to weaken or cripple the 1965 Voting Rights Act. The Butler amendment would indeed weaken the act. The dangers of the Butler amendment are clearly delineated in correspondence the Members received from Congressman EDWARDS, the distinguished chairman of the Subcommittee on Civil Rights and Constitutional Rights. I am certain that our colleague from Virginia (Mr. BUTLER) would agree that the desired goal would be for all eligible citizens to be registered and to vote 100 percent of the registration. However, I am puzzled when he proposed that a 60-percent registration rate among minorities is sufficient for bailout. The Butler amendment should be seen for what it really is, a weakening device, and should, therefore, be overwhelmingly rejected by this body.

The Wiggins substitute is an even more dangerous weakening device. Again, I would like to call to the attention of my colleagues the excellent critical analysis of the Wiggins amendment done by the chairman of the subcommittee. The Wiggins substitute, labeled as "progressive" should be allowed to progress to the burial ground for unneeded, unwanted legislation. It is indeed curious that the gentleman from California did not have his proposal before either the subcommittee or the full committee for consideration. This body will reject the Wiggins amendment, because that is the right course of action to follow.

My colleagues, in these times when minorities are once again unsure whether the white majority is with us or against, let us not add to those uncertainties and concerns. Let us pass H.R. 6219 without crippling amendments and pass it in such numbers so as to assure the Nation that our moral fiber has not been eroded.

Mr. DRINAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the Voting Rights Act is designed to do three things; first, to allow and facilitate the registration of all voters.

Second, to permit all citizens to vote equally and impartially and without discrimination.

Third, to permit minority candidates to run with a reasonable hope of access to public office.

The substitute that we talk about here is not a substitute, because it covers at most only one section of those three major purposes. The Wiggins substitute is a truncated version, which is not really a Voting Rights Act at all. It surfaced 3 weeks ago in the Committee on Rules, never having been heard of before. It does two things. If 5 percent of the voting population is black or brown and 50 percent fail to vote then a trigger comes in. But what about all the other things that the minorities need in this country?

The Voting Rights Act was called by the press this morning perhaps the most successful Civil Rights Act in the whole history of this Nation.

This substitute would cut out all of the basic protections that have been afforded by this act ever since 1965. We are familiar with gerrymandered districts, with two-Member districts, with registrars that do not register minority voters. There would be no protection against these perils under this substitute.

Furthermore, Mr. Chairman, I think that the Wiggins substitute is of dubious constitutionality. In South Carolina against Katzenbach, the Court said very carefully that the Voting Rights Act has been an unusual exercise of congressional power.

The U.S. Supreme Court went on to note that ordinarily some evidence of abuse must be present before the Congress can constitutionally impose Federal power upon the voting process of a jurisdiction.

The Wiggins substitute speaks of no abuses. It speaks of a blanket coverage, whether there is abuse or not. If 50 percent of the minority do not vote and if they constitute 5 percent of the total voting population, then theoretically the Attorney General does something. This would lead into endless investigations, concluding with the momentous evidence that it was raining the day of the election or that the candidates were not very good or that the issues were never brought out.

What the Wiggins substitute proposes is not a Voting Rights Act. It states merely that we ought to have firm law enforcement at all times with respect to any potential abuse.

I think, therefore, that the Voting Rights Act should be preserved as it is.

The Department of Justice is opposed to the Wiggins substitute. The U.S. Civil Rights Commission has come out against the Wiggins substitute. The Leadership Conference on Civil Rights is opposed to the Wiggins substitute.

The Wiggins substitute is not a substitute at all. It is a complete evisceration of the Voting Rights Act.

I say in all candor and with due respect to the distinguished author of this substitute that he has not given us a substitute. It is a sham. It is not a substitute. It is a sellout.

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

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

Mr. WIGGINS. Mr. Chairman, I thank the gentleman for yielding.

I am sure he does not intend to imply that the substitute has the effect of eliminating all of the guarantees we carefully built into the 1965 act. Surely all Members should understand that all the provisions of that act are incorporated, with respect to registrars and Federal examiners. My amendment retains much of the bill adopted in the committee with respect to expedited proceedings to be followed by the Attorney General. It incorporates the beneficial portions of the committee bill, but, in my opinion, it finally, at long last, puts some rationality into the trigger.

Mr. BADILLO. Mr. Chairman, I rise in opposition to the amendment, because it suffers from the disadvantage that it provides a remedy where no remedy is needed and it takes away a remedy which is necessary in the covered jurisdictions.

The irony of the position of the supporters of the gentleman from California (Mr. WIGGINS) is that those who now want to cover every area where there are more than 5 percent black people or more than 5 percent Spanish-speaking people throughout the country, without inquiry at all, are the very same people who, when this amendment is defeated, will turn around and object to the inclusion of Spanish-speaking people on the grounds that the fact of discrimination has not been fully documented.

They are the ones who, in the committee and yesterday, were objecting to the fact that we did not document that every single county in Texas or every single county included in the other jurisdictions was a county where there had been discrimination practiced. Now, they want to apply, without inquiry, without testimony, to every part of the country; to Nevada, to Wyoming, to Oregon, to Washington, to areas which at no time were considered in the testimony that was submitted before the committee.

We have a tradition in this act that the jurisdictions to be covered are those where there has been a documentation in the record of the need for congressional action. That was the basis of the Voting Rights Act of 1965, and that is why the triggering mechanism was limited particularly to the Southern States involved. In 1975, we seek to show that the spirit of the 1960's continues clear into the 1970's, and now we want to include on the basis of testimony those jurisdictions in the Southwest and in the Northeast where there has been evidence of discrimination.

If there is evidence of further discrimination in every part of the country where there is more than 5 percent of black people or Spanish-speaking people, then that can be brought forward and a subsequent amendment to the Voting Rights Act of 1975 can be made, but no such evidenced was produced.

Therefore, that is why I say that the amendment offered by the gentleman from California (Mr. WIGGINS) seeks to provide a remedy where none is being established as necessary. At the same time, it takes away a remedy that already exists because, by limiting the act to the right to vote, the gentleman from California fails to appreciate the changes that have taken place since the 1965 act was written. At that time, when we said the right to vote, we were talking about registration, we were talking about voting only, but since then and through experience, we have come to recognize that the right to vote is only a meaningful right if the authority of the State, if the authority of the majority, is not used to dilute the right to vote by techniques of redistricting that would bring about a dilution of the right to vote even if more than 50 percent of the people vote, by techniques of annexation which would make it impossible for a black or Spanish-speaking councilman to be elected if an area was brought in and put into his district so that he could not win even if 50 percent of the blacks or Mexicans were to vote.

The Wiggins amendment, by enabling that jurisdiction to pull out from the benefits of the act the moment that the

minority groups vote to the extent of more than 50 percent, would then enable that State or that locality to pass legislation which would annex other areas, or would redistrict the boundaries of the local districts in such a way that even if 60 percent of the minorities involved were to come out and vote, they could not possibly elect anyone from their particular groups.

To that extent, it takes away a remedy which already exists in that in 1975, and hopefully thereafter, the right to vote is more—not only the right to register and to vote on election day, but the right to have a chance to elect someone who comes from the particular group to show that all of the groups can contribute to better government in our democracy.

Mr. McCLORY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would just like to make a few comments at this point with regard to statements which have been made on the floor in opposition to the amendment offered by my colleague from California (Mr. WIGGINS). I was here in 1965 when we passed the Voting Rights Act, and the testimony and evidence we had of discrimination, of intimidation, of coercion and threats were such as to demand the kind of legislation that is embodied in the 1965 act as extended, an act that I think should be extended again. But I have gone through this record and outside of the testimony and evidence with respect to the State of Texas, I do not find anything that bears any resemblance or any comparison to the kind of testimony and evidence that we had at the time we enacted this original act.

I would like one of the proponents of this legislation who endeavors to include Spanish heritage and native Alaskans and Indians and Asian Americans as contained in the committee bill to point to me in the record the substantial basis for providing this kind of comprehensive legislation. It just is not there. There is a virtual dearth of testimony and evidence in that connection.

I think that it is all well and good to get up on this floor and say how beneficial the 1965 Voting Rights Act has been and I will agree with that and I support that position, but to use that as a basis for expanding the act to include all kinds of language minorities and to do all of the other things that this legislation undertakes to do is to misrepresent what the true facts are.

The true facts are that in 1974 we had less than 40 percent of the entire voting age population who voted in the election. We are not going to use that as a formula, as a trigger. Yet there is no basis for this comprehensive legislation except the triggering device, the formula. There is virtually no evidence of discrimination which should be the basis for the action we are taking here.

For instance, the State of Colorado would have one of the voting areas which would be under this act and subject it automatically to the triggering device that would enable the Federal Government to put in observers and watchers and registrars, and so on in that area.

What evidence is there in the RECORD to justify the imposition or the superimposition of the Federal Government over this area in Colorado? It just is not there.

With respect to not only that area but other areas referred to throughout the country—California, New Mexico, and Arizona—I would say that, outside of the State of Texas, we do not find any evidence which compares to the kind of evidence we had at the time of the 165 act.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I will be glad to yield to the gentleman from Colorado, since I mentioned the gentleman's State.

Mr. EVANS of Colorado. I thank the gentleman for yielding. I do have some grave reservations and concerns about the bill as drawn, in that it does include counties in Colorado.

May I inquire of the gentleman whether he supports the amendment offered by the gentleman from California (Mr. WIGGINS)?

Mr. McCLORY. I did not rise either in support or in opposition. I will have my own amendments to this legislation, to strike titles II and III of the bill, and I will be supporting those. I certainly do not want to do any damage to the gentleman's amendment at this stage, but I think there have been misrepresentations as to what his amendment would do. I just wanted to take the time, in order to clarify that, and to reject the statements that have been made about how important it was for us to expand this legislation far beyond the concept that we had in the 1965 act.

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

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

Mr. DRINAN. Mr. Chairman, I would like to point out for the gentleman that the facts found by the committee indicated this: The illiteracy rate among persons of Spanish heritage is 18.9 percent; among Chinese it is 16.2 percent; and among American Indians it is 15.5 percent; whereas the nationwide illiterarcy rate is only 4.5 percent.

Furthermore, in the 1972 Presidential election——

Mr. McCLORY. I do not want to yield any more at this point, because I am asking for proof of discrimination. I am not asking that the gentleman suggest how many people voted or what percentage of the people have gone through the fifth grade, or anything like that.

Is there discrimination with respect to voting in any of these States with respect to any of the language categories which compares to the kind of discrimination we had against black Americans when we considered the 1965 act? There is none.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I must say that I find it curious and incredible this country tolerates any roadblocks put in front of its people exercising their franchise. After 200 years in this country we should be doing everything we can to remove any barriers to voting, because we have always had an incredibly low voter turnout among all voters. I would like to see postcard registration or a law saying people can vote on the basis of their social security card. But, that is not what we are discussing. We are discussing how to determine when discriminatory barriers have been erected.

Mr. Chairman, as chairwoman of the House Census Subcommittee I am acutely aware of just how much leadtime is necessary to prepare for, and then conduct a nationwide survey of the scope called for in this amendment.

After checking with the Bureau of the Census, it seems apparent to me that in voting for this amendment, we would, in all probability, be voting to suspend the provisions of the Voting Rights Act from February 1977, until early 1979.

The Bureau of the Census has informed me that unless a $200 million appropriation were forthcoming immediately to begin work on the proposed voting survey, then it could not be done until the 1978 election at the earliest. And as I understand this amendment, there would be no coverage under the act after February 5, 1977, until a survey identified covered jurisdictions.

Moreover, it is clearly unwise to jeopardize the provisions of this act by tieing its coverage to some future appropriation which might not be forthcoming.

But regardless of the questions surrounding the timing of the proposed survey, there is a major flaw in this amendment. It alludes to a "5-percent minority population" coverage criterion, as if this figure can be precisely determined. It cannot.

In fact, as the Bureau of the Census will concede, there are severe difficulties with undercounts in areas with high concentrations of minorities.

The official average undercount nationally for blacks in the 1970 census was 7.7 percent. The undercount for Spanish surnamed cannot be officially determined, but in my opinion, probably exceeded that for blacks. In stating that undercounts averaged almost 8 percent nationally, one virtually concedes that in individual jurisdictions, minority undercounts could easily be as high as 20 to 25 percent.

Therefore, it seems to me to be inappropriate at the very least, to predicate protection of one of the basic civil rights of Americans on the basis of admittedly less than accurate statistical measurements.

The minorities of this country have suffered enough by census undercounts—let us not add yet another category to the injustices and inequities which have resulted from this problem.

Mr. EVANS of Colorado. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, I am glad that the gentlewoman has brought these facts to the attention of the Committee. I am concerned about the delay and the cost of the census that would be required by the adoption of the Wiggins amendment.

There is one other aspect of this that also concerns me. Under a provision of the Wiggins amendment, the census would not only result in a voting abstract to find out how many people voted but it seems to me they are going to be called upon to find out the race of every person who voted.

Mr. Chairman, we have some precincts where we might find just one race or one nationality living there and voting, and I suppose taking a census of that precinct would not be difficult at all. However, the majority of the precincts in this Nation are multiracial; they include white, black, brown, oriental, and so forth.

Under the provisions of the Wiggins amendment, the census is going to have to establish the racial identity of everybody who voted. Otherwise the triggering mechanism in the gentleman's amendment would be completely inoperative. If that were to take a long time and if it were to cost a lot of money, I have serious reservations that any such census would be funded, and if it were funded, I have serious reservations that it would be implemented in time to have a timely effect on succeeding elections.

Mr. Chairman, I thank the gentlewoman for yielding.

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman for his remarks. I think the gentleman is correct.

I know that the census survey called for in the 1964 Civil Rights Act has never been funded and that has never been.

I also think it is a great tragedy that the gentleman's amendment has never had hearings held on it, and that the Census Bureau has not been able to come forward and explain the problems they would have with this kind of survey acting as a triggering mechanism.

In addition, the State governments should have been able to testify about the implications of this substitute on them.

Mr. Chairman, it sounds as if the gentleman's substitute is very precision-oriented and it sounds as if it would work very well on its face but I do not think the statistics are there to allow this to happen.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to give my colleague from California (Mr. WIGGINS) an opportunity to respond.

I, too, am on the Census Subcommittee of the Committee on Post Office and Civil Service, serving with my distinguished chairman, the gentlewoman from Colorado. It is true that we have ongoing census surveys going on all the time in the field of economics, unemployment, and in the field of health. These civil servants from the Census Bureau are in the field almost all the time, and they tell us that those surveys that they take, on which we base a great deal of the administrative procedures and followup requirements we provide in various laws are in many cases effective up to 3 or 4 percent of the total population.

Mr. Chairman, I will yield to the gentlewoman in just a minute.

I want to give my colleague, the gentleman from California (Mr. WIGGINS) a chance to respond to some of the gentlewoman's claims that it would cost $200 million to conduct the kind of surveys that Mr. WIGGINS' amendment contemplates. That just simply is not true, nor is it a fair statement to make. The material presented in our committee's hearings do not justify that claim.

I now yield to my colleague, the gentleman from California (Mr. WIGGINS), for a brief response.

Mr. WIGGINS. Mr. Chairman, I thank the gentleman for yielding.

I welcome this opportunity to correct any misapprehension on the part of the gentlewoman from Colorado (Mrs. SCHROEDER) or anyone else concerning the cost or the precision necessary in making the determinations which are required of the Bureau of the Census under my substitute.

The legislative history which was made yesterday, pursuant to my substitute language, makes it absolutely clear that the Bureau of the Census may make the determinations required of it under this substitute by relying upon its existing census data, the most recent census data in its computer records or any data that it may have accumulated for another purpose.

The cost of establishing the 5-percent figure is the cost of pushing a button; that is all.

It will be necessary to take a survey to determine voter participation. The media in this country, the national networks, can tell us within 30 seconds after the polls close how the blacks voted. There is not a Member in this Chamber who cannot tell us, with a high degree of precision, how the minorities voted in his district, without the expenditure of any money.

The legislative history makes it clear that the Bureau of the Census need not achieve 95-percent precision, which is their normal standard, but may employ standards or techniques of the type employed by commercial polling organizations. The cost of such a survey is one-tenth or less of the cost projected by the Bureau of the Census.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman for his comments.

I would also like to say in further discussion of the amendment of my colleague, the gentleman from California (Mr. WIGGINS), that our subcommittee is now contemplating legislation for some kind of ongoing census every 5 years. That piece of legislation has not completed its history, but we have had hearings on the concept. The claim that we would have to go to some kind of full census or almost full census to complete the approach contemplated in the amendment of my colleague, the gentleman from California, I do not think is a fair charge.

I will yield to both of my colleagues, the gentlewoman from Colorado, and the gentleman from California, in just a moment.

Mr. Chairman, I would like to reemphasize that there is ongoing census work that takes place every single day in our country relating to unemployment statistics, relating to health surveys, and those type surveys include various racial counts.

My colleague from Colorado had indicated that there is some problem in being able to relate those areas where substantial minority groups reside. That simply is not true. Therefore, I wanted to reassure my colleague that on the basis of the information that we get regularly from the Census Bureau and that the Department of Labor receives every month or which HEW receives every month from the Census Bureau, that the survey proposed by the Wiggins amendment be carried on in connection with other work already being conducted and that we not go into a special census to accomplish the kind of information he envisions.

(By unanimous consent, Mr. ROUSSELOT was allowed to proceed for 2 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, I now yield to my colleague, the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Chairman, I appreciate the gentleman yielding. Let me say the cost of the survey required by the Wiggins amendment was given me by the Bureau of the Census. The Bureau of the Census gave the chairman of the subcommittee, the same estimate of $200 million to do this survey. You say there may be some dispute about that figure but the Census Bureau has been consistent in their estimates. Unfortunately, there were no hearings on whether the estimate is correct or not. There is also the problem of using the old 1970 census figures. Further if the survey is not funded there is the problem that in 1977 that there might be a gap in coverage until we have the survey that retriggers its coverage under the act.

Mr. ROUSSELOT. Let me say to my colleague, the gentlewoman from Colorado, that we have had extensive hearings on the cost of various kinds and degrees of surveys that have been taken by the Bureau of the Census.

Mrs. SCHROEDER. That is correct.

Mr. ROUSSELOT. We know and have received cost estimates on much of that, and many of those various kinds of limited surveys that my colleague, the gentleman from California (Mr. WIGGINS) contemplates could be taken without the cost being $200 million.

Mr. Chairman, I think it would be wrong to leave the impression with this body that it would be necessary to spend $200 million to achieve the kind of result in a survey that my colleague, the gentleman from California (Mr. WIGGINS) contemplates, in his amendment in the nature of a substitute. As I say, there are varying degrees of census activities that can be undertaken. A survey may not be probable down to 1 percent, but it could be within 3 or 4 percent of actuality, as we have been told by the Bureau of the Census time and time again when they have testified on the points that the gentlewoman from Colorado is making.

Now, Mr. Chairman, I would be glad to yield to the gentleman from California (Mr. EDWARDS) if the gentleman has any additional points to make or raise.

Mr. EDWARDS of California. Mr.

Chairman, I do not have any additional points to make. My original point is still well made, and I will put in the letter from the Bureau of the Census concerning the costs of the survey that is dated May 30, 1975, in the RECORD when we go back into the House.

Mr. ROUSSELOT. That will be fine.

Let me say to the gentleman from California that the point has been made by the Bureau of the Census itself before our subcommittee that there are varying kinds of surveys that can be taken in conjunction with regular surveys that are now being done, and, although the end product may not be absolutely perfect, it is more than adequate to meet the criteria my colleague, the gentleman from California (Mr. WIGGINS), would contemplate.

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

(On request of Mr. EDWARDS of California, and by unanimous consent, Mr. ROUSSELOT was allowed to proceed for 1 additional minute.)

Mr. EDWARDS of California. Mr. Chairman, if the gentleman will yield further, I would like to make it clear to the gentleman from California (Mr. ROUSSELOT) that the Wiggins amendment in the nature of a substitute mandates a particular type of survey. These are the surveys that the Bureau of the Census says will cost $200 million per year.

Mr. ROUSSELOT. It would be in conjunction with other surveys. That is the point I am trying to make; it would be in conjunction with other surveys that the Bureau of the Census is now completing on an ongoing basis such as a monthly accounting relating to unemployment, production, or many of the other types of surveys. My colleague, the gentleman from California (Mr. WIGGINS), I believe does not contemplate the kind of costly survey that the gentleman from California (Mr. EDWARDS) and the gentlewoman from Colorado (Mrs. SCHROEDER) have in mind.

Mr. EDWARDS of California. The bill mandates it.

Mr. ROUSSELOT. I think there is an honest disagreement on what that cost will be. On the basis of the hearings in which I participated with the Bureau of the Census I do not believe that that cost would be of the kind that the gentleman from California envisions.

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

Mr. KETCHUM. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment in the nature of a substitute offered by the gentleman from California (Mr. WIGGINS).

I believe that the Wiggins amendment is a wise and reasonable substitute to the committee bill. It concentrates on the percentage of voting minorities rather than the percentage of total citizen voting age population. As my colleague from California has pointed out, if every single person of Spanish heritage voted in a particular area in 1972, the area could still be covered under the committee bill if the overall turnout was less than 50 percent. This does not make sense. If our purpose is to insure the voting rights of our minority citizens, let us direct our attention to their voter participation.

Another positive feature about the Wiggins substitute is that it focuses upon current voter performance. Under this bill, a jurisdiction is covered if 5 percent or more of its voting age population is black or Spanish heritage, and 50 percent or less of such minorities voted in the most recent general Federal election. The coverage is updated every 2 years so that a jurisdiction with a poor minority turnout one year is not indefinitely saddled with the "special remedies" of the act. A jurisdiction thus has a great incentive to improve minority participation in the voting process. I see no reason why an area should continue to be penalized for events that occurred in the past, once the area has taken positive steps to remedy its discriminatory practices.

The Wiggins bill confers special protection on blacks and persons of Spanish heritage only and does not mandate bilingual ballots. During the hearings on H.R. 6219, very little evidence was submitted concerning discrimination against the other minority groups covered in the committee bill, namely American Indians, Asian Americans, and Alaskan Natives. In addition, there is no one single language for each of these groups. Asian Americans include citizens of Japanese, Chinese, Filippino, and other descent while the language of American Indians and Alaskan Natives comprise many dialects and in some cases, does not even have a written form. How, then, can a jurisdiction provide a bilingual ballot?

For these reasons, I urge rejection of the committee bill and passage of the Wiggins substitute.

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

Mr. KETCHUM. I am most happy to yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, we can discuss this question of the census at great length, and I think it is helpful in the sense that it will give some guidance to the Bureau of the Census when they undertake to implement this amendment in the nature of a substitute, or, indeed, the committee bill.

I am sure my colleagues, of course, understand that all of the problems raised with regard to the Wiggins substitute are also present, perhaps to a lesser degree, but present, nevertheless, in the committee bill.

But, Mr. Chairman, let us get this fact clear if we forget everything else. The Bureau of the Census is mandated to do what this Congress tells it to do. It does not determine procedures which it finds satisfactory if the Congress finds those procedures to be unsatisfactory.

In my substitute the standard of certainty required for the purpose of making the determinations required under the substitute is not the 95-percent precision customarily employed by the Bureau of the Census. It is not certain which tolerates one standard deviation. It is the standard of certainty which lawyers in this House are accustomed to dealing with; namely, that the fact to be established is determined by a preponderance of the evidence, that is to say, it is more probable than not.

Why do we seek the determination required under the act? The purpose of this act is not to ascertain how many blacks are in a jurisdiction or how many voted with great precision. Those facts merely trigger a rebuttable presumption. It is not necessary to determine these 5-percent or 50-percent figures with a high level of precision since it only results in a rebuttable presumption.

I assure the Members, Mr. Chairman, that they may have reasons known best to themselves why they would not wish to support my substitute, but do not vote on the false premise that it is extraordinarily expensive. It is not. The job can be done for one-tenth or less than is suggested by the Bureau of the Census. If they claim they cannot perform as required by Congress, then it is high time we get a Director of Bureau of the Census who can.

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

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

Mr. McCLORY. I thank the gentleman for yielding.

I would just like to point out that in the committee bill a census is required every 2 years. It seems to me as though the census surveys in the committee bill would be a more complex requirement than the Wiggins substitute since under the Wiggins substitute we would only have Spanish-heritage people to be concerned about, whereas under the committee bill we have American Indians, Alaskan Natives, and Asian Americans, as well as Spanish-heritage people. Accordingly, it would seem to me to be more complicated, more expensive, and more comprehensive under the committee bill than under the Wiggins substitute. At any rate, there will be substantial expense to the conducting of these surveys.

Mr. KETCHUM. Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee of the Whole appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred and one Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the request of the gentleman from California (Mr. WIGGINS) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 134, noes 269, not voting 30, as follows:

[Roll No. 250]

AYES—134

Abdnor	Gonzalez	Moorhead, Calif.
Archer	Goodling	Myers, Ind.
Armstrong	Gradison	Nichols
Ashbrook	Hagedorn	Pettis
Bafalis	Haley	Poage
Bauman	Hansen	Preyer
Boggs	Harsha	Quie
Breaux	Hastings	Quillen
Brinkley	Hefner	Rhodes
Brooks	Henderson	Robinson
Broomfield	Holland	Rose
Brown, Mich.	Hutchinson	Rousselot
Broyhill	Hyde	Runnels
Buchanan	Ichord	Satterfield
Burgener	Jarman	Schneebeli
Burleson, Tex.	Jenrette	Schulze
Butler	Johnson, Colo.	Shuster
Byron	Johnson, Pa.	Sikes
Casey	Jones, Ala.	Smith, Nebr.
Cederberg	Jones, Okla.	Snyder
Clancy	Kasten	Spence
Clausen, Don H.	Kazen	Steelman
Clawson, Del	Kelly	Steiger, Ariz.
Collins, Tex.	Kemp	Steiger, Wis.
Conable	Ketchum	Stephens
Crane	Kindness	Stuckey
Daniel, Dan	Lagomarsino	Symms
Daniel, R. W.	Landrum	Talcott
Davis	Lent	Taylor, Mo.
de la Garza	Levitas	Taylor, N.C.
Derrick	Lloyd, Calif.	Teague
Derwinski	Long, La.	Treen
Devine	Lott	Vander Jagt
Dickinson	Lujan	Waggonner
Downing	McCollister	White
Duncan, Tenn.	McDonald	Whitehurst
Edwards, Ala.	McEwen	Whitten
Erlenborn	Mahon	Wiggins
Eshleman	Mann	Wilson, Bob
Flowers	Martin	Wright
Flynt	Michel	Wydler
Forsythe	Milford	Wylie
Fountain	Miller, Ohio	Young, Alaska
Frey	Montgomery	Young, Fla.
Ginn	Moore	Young, Tex.

NOES—269

Abzug	Burton, John	Fish
Adams	Burton, Phillip	Fisher
Addabbo	Carney	Fithian
Ambro	Carr	Flood
Anderson, Calif.	Carter	Florio
Anderson, Ill.	Chisholm	Foley
Andrews, N.C.	Clay	Ford, Mich.
Andrews, N. Dak.	Cleveland	Ford, Tenn.
Annunzio	Cohen	Fraser
Ashley	Collins, Ill.	Frenzel
Aspin	Conte	Fulton
AuCoin	Conyers	Fuqua
Badillo	Corman	Gaydos
Baldus	Cornell	Giaimo
Barrett	Cotter	Gibbons
Beard, R.I.	Coughlin	Gilman
Bedell	D'Amours	Grassley
Bell	Daniels, N.J.	Green
Bennett	Danielson	Gude
Bergland	Delaney	Guyer
Biaggi	Dellums	Hall
Biester	Dent	Hamilton
Bingham	Diggs	Hanley
Blanchard	Downey	Hannaford
Blouin	Drinan	Harkin
Boland	Duncan, Oreg.	Harrington
Bolling	Early	Harris
Bonker	Eckhardt	Hawkins
Brademas	Edgar	Hayes, Ind.
Breckinridge	Edwards, Calif.	Hays, Ohio
Brodhead	Emery	Hechler, W. Va.
Brown, Calif.	English	Heckler, Mass.
Brown, Ohio	Esch	Heinz
Burke, Calif.	Evans, Colo.	Helstoski
Burke, Fla.	Evans, Ind.	Hicks
Burke, Mass.	Evins, Tenn.	Hightower
Burlison, Mo.	Fascell	Hillis
	Fenwick	Holt
	Findley	Horton
	Howard	Mottl
	Howe	Murphy, Ill.
	Hubbard	Murphy, N.Y.
	Hughes	Murtha
	Hungate	Myers, Pa.
	Jacobs	Natcher
	Jeffords	Neal
	Johnson, Calif.	Nedzi
	Jordan	Nix
	Karth	Nolan
	Kastenmeier	Nowak
	Keys	Oberstar
	Koch	Obey
	Krebs	O'Brien
	Krueger	O'Hara
	LaFalce	O'Neill
	Latta	Ottinger
	Leggett	Patman, Tex.
	Lehman	Patten, N.J.
	Litton	Patterson, Calif.
	Lloyd, Tenn.	Pattison, N.Y.
	Long, Md.	Pepper
	McClory	Perkins
	McCloskey	Peyser
	McCormack	Pickle
	McDade	Pike
	McFall	Pressler
	McHugh	Price
	McKay	Pritchard
	McKinney	Randall
	Macdonald	Rangel
	Madden	Rees
	Madigan	Regula
	Maguire	Reuss
	Matsunaga	Richmond
	Mazzoli	Riegle
	Meeds	Rinaldo
	Melcher	Risenhoover
	Metcalfe	Rodino
	Meyner	Rogers
	Mikva	Roncalio
	Miller, Calif.	Rooney
	Mills	Rosenthal
	Mineta	Rostenkowski
	Minish	Roush
	Mink	Roybal
	Mitchell, Md.	Ruppe
	Moakley	Russo
	Moffett	Ryan
	Moorhead, Pa.	St Germain
	Morgan	Santini
	Mosher	Sarasin
	Moss	Sarbanes
		Scheuer
		Schroeder
		Sebelius
		Seiberling
		Sharp
		Shipley
		Shriver
		Simon
		Sisk
		Skubitz
		Slack
		Solarz
		Spellman
		Staggers
		Stanton, J. William
		Stanton, James V.
		Stark
		Steed
		Stokes
		Stratton
		Studds
		Sullivan
		Symington
		Thompson
		Thone
		Thornton
		Traxler
		Tsongas
		Udall
		Ullman
		Van Deerlin
		Vander Veen
		Vanik
		Vigorito
		Walsh
		Waxman
		Weaver
		Whalen
		Wilson, C. H.
		Winn
		Wirth
		Wolff
		Wylie
		Yates
		Yatron
		Young, Ga.
		Zablocki
		Zeferetti

NOT VOTING—30

Alexander	Eilberg	Mitchell, N.Y.
Baucus	Goldwater	Mollohan
Beard, Tenn.	Hammer-schmidt	Passman
Bevill	Hébert	Railsback
Bowen	Hinshaw	Roberts
Chappell	Holtzman	Roe
Cochran	Jones, N.C.	Smith, Iowa
Conlan	Jones, Tenn.	Wampler
Dingell	Mathis	Wilson, Tex.
Dodd	Mezvinsky	
du Pont		

So the amendment in the nature of a substitute was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Eilberg against.

Mr. Beville for, with Mr. Baucus against.

Mr. Passman for, with Ms. Holtzman against.

Mr. Roberts for, with Mr. Dingell against.

Mr. Charles Wilson of Texas for, with Mr. Dodd against.

Mr. Mathis for, with Mr. Mollohan against.

Mr. Bowen for, with Mr. Mezvinsky against.

Mr. Chappell for, with Mr. Roe against.

Mr. Conlan for, with Mr. Mitchell of New York against.

Mr. Cochran for, with Mr. Railsback against.

Mr. Wampler for, with Mr. du Pont against.

The result of the vote was announced as above recorded.

Mr. YOUNG of Alaska. I move to strike out the requisite number of words.

The CHAIRMAN. The gentleman from Alaska is recognized for 5 minutes.

Mr. YOUNG of Alaska. Mr. Chairman, the gentleman from Illinois (Mr. McCLORY) and myself will introduce an amendment which will delete the term "Alaska Natives" from the bill H.R. 6219.

I first learned of the Judiciary Committee's intention to include Alaska in this act by reading the newspapers. That may have been my fault or it may not have been my fault, but I have learned since that the inclusion of Alaska Natives was done without research and without much deliberation. The addition of the Alaska Natives was done at the suggestion of the Justice Department which never researched how Alaska would or could comply with the act. I have a letter which I will read and place in the RECORD on this subject.

Let us get back to what this really does. By including Alaska Natives in titles II and III, the act places an impossible burden upon the State of Alaska. The most difficult problem would be providing bilingual ballots. We have in the State of Alaska more than 20 different dialects which, for the most part are spoken, but not written.

It has only been recently that the University of Alaska has attempted to reduce these dialects to written form. Let me restate that. The University of Alaska, and not the native people. As a result, it would be humanly impossible for the State of Alaska to comply with the act.

On the positive side, Alaska statutes (AS 15.15240) dictate that voter assistance must be provided where a language barrier exists. Many voters do ask for and receive assistance as provided in this section of the Alaska statutes. Although there are many Eskimo and Indian dialects, English is the only language spoken and understood by all minority groups.

In 1966 and again in 1971. Alaska has come under the Voting Rights Act and both times the State successfully won their case in the U.S. District Court in Washington, D.C. Alaska's Natives understand the intent of the law, but they also know the realities of the electoral process. I have received telegrams from the Alaska Federation of Natives and several native corporations in support of my amendment. I realize that we could extradite ourselves once again in another suit, but why should the taxpayers of Alaska and of the United States spend money when it is not necessary?

As the president of the Alaska Federation of Natives points out in his telegram, the number of natives able to read their own language is minimal. English is the universal language. Thus, if we were able to print ballots in the 20 different dialects, the Natives themselves would not be able to read them.

The State of Alaska is one of the most progressive in the Union, where voting rights are concerned. We have registration by mail, no literacy tests or devices, many educational pamphlets and other voting aids are made available.

There is a common saying in Alaska, "If you are warm, you can vote."

If the Voting Rights Act passes with Alaska Natives included, it will once again demonstrate to the people in my State that: First, Congress has not done its homework; and second, Congress is needlessly overstepping its boundaries on a matter that can best be handled at the State level.

Mr. Chairman, if I may, I would like to read from a letter written by one Hon. J. Stanley Pottinger.

This is not to say that any evidence has been presented to us of a need for expansion of the coverage of the Act to Alaskan natives; we have received no specific evidence regarding them. However, we think it would be more appropriate to leave to the courts the determination as to which racial minorities who are non-English speaking need the special protections of the Act. The State of Alaska has been able to bail out from the special provisions of the Act on two prior occasions, and if there is no discrimination against Alaskan natives presumably could bail out if Congress were to include it within the coverage of the 1975 Voting Rights Amendment.

Mr. Chairman, I say the intent of the act is good, but the inclusion of the Alaskan Natives is not. The inclusion of the Alaskan Natives in this act will cause confusion. The Natives themselves do not support inclusion in the act. The elected officials of the State do not support inclusion in the act. It places a burden on the State of Alaska that is not called for.

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

Mr. YOUNG of Alaska. I will yield to the gentleman from Massachusetts.

Mr. DRINAN. We had evidence in the subcommittee, and also in the Senate, of the position of Senator GRAVEL, and he thought that, while there may be some burdens imposed by this legislation, he said in all three known dialects, Navajo, Sioux and Cherokee, some of the Alaskan Natives could in fact vote in that particular language, but he felt, more fundamentally, that it might be, with regard to the 40 dialects, that not a single language minority in Alaska would in fact trigger the act.

Would the gentleman want to comment on these comments?

Mr. YOUNG of Alaska. The danger we see, if it is triggered, the ballots must be printed in all 20 dialects. It is a possibility. The only people who have those dialects are bilinguists and some people at the University of Alaska. If it is triggered, it will cause a burden upon the Alaska natives who themselves do not want to be included in the act.

So far as the Senator from Alaska, I respectfully submit his wires were crossed, and he is also going to offer an amendment on the Senate side that will possibly try to clarify the position he has taken.

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

(By unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 1 additional minute.)

Mr. YOUNG of Alaska. Again, I can only state that this is a typical example of Congress acting supposedly for the good of the people, when the people—and I am talking about the minorities—do not want it themselves.

I ask the Members, respectfully, to listen to the people we are supposed to represent.

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

Mr. YOUNG of Alaska. Yes, I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I think the point should be made that under this legislation, Alaskan Natives would constitute one single minority-language group, and the bill would require that ballots should be printed in that language, whereas there is not one language for the single minority group, but there is a multiplicity of languages and dialects, none of which or most of which are not in written form. Therefore, it makes the act absolutely absurd and ridiculous, in its present form, when attempted to be applied to Alaska.

Mr. YOUNG of Alaska. I cannot agree with the gentleman from Illinois more.

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

Mr. YOUNG of Alaska. Yes, I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, I know the gentleman from Massachusetts (Mr. DRINAN) would not mislead us, but the Senator from Alaska did not testify before the House Committee on the Judiciary when I was present, and I think the gentleman from Massachusetts will agree with that.

AMENDMENT OFFERED BY MR. BUTLER

Mr. BUTLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUTLER: Page 2, immediately after line 6, insert the following:

SEC. 103. Section 5 of the Voting Rights Act of 1965 is Amended by adding at the end thereof the following:

"Notwithstanding any other provision of this section, a State or political subdivision with respect to which the prohibitions set forth in section 4(a) of this title are in effect may institute an action in the United States District Court for the District of Columbia for a declaratory judgment against the United States that such State or political subdivision is exempted from complying with the requirements of this section with respect to all existing and prospective voting qualifications, prerequisites to voting, and standards, practices, or procedures with respect to voting. Such declaratory judgment shall be entered by the court upon proof by the State or political subdivision of the following circumstances:

"(1) The Director of the Census has determined that no less than sixty per centum of the eligible minority citizens of voting age residing therein on the date of the most recent general election for President or Members of Congress were registered to vote and no less than sixty per centum of such citizens voted in said election;

"(2)(A) At all times during the two years preceding the filing of the action for a declaratory judgment, there were no objections interposed by the Attorney General (which were not overridden by the granting of a declaratory judgment) or the denial of a declaratory judgment by the United States District Court for the District of Columbia, pursuant to this section, against such State or political subdivision or against any governmental jurisdiction within the territory of such State or political subdivision; and

"(B) At all times during the five years preceding the filing of such action for declaratory judgment there has been

"(a) no final judgment of a federal or State court ruling that violation of the fourteenth or fifteenth amendments with respect to the voting rights of minorities or of any legislation implementing such amendments wtih respect to the voting rights of minorities has occurred anywhere in the territory of such State or political subdivision;

"(b) no change in any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting in such State or political subdivision put into force or effect without timely filing of a declaratory judgment action in the United States District Court for the District of Columbia or timely submission to the Attorney General pursuant to this section;

"(c) repealed and there has not been used any test or device as defined by subsection (c) of section 4 and section 4(f)(3) of this title and there has been repealed or the objection withdrawn with respect to all changes in voting qualifications, or prerequisites to voting, or standards, practices, or procedures with respect to voting to which the Attorney General interposed an objection pursuant to this section (which was not overriden by the granting of a declaratory judgment) or with respect to which the United States District Court for the District of Columbia denied an action for declaratory judgment pursuant to this section in such State or such political subdivision;

"(d) no federal voting examiner sent to or maintained within such political subdivision or sent to or maintained within any political subdivision of such State pursuant to section 6 of this title; and

"(e) no incident of voting discrimination that has denied minority voting rights in violation of the fourteenth or fifteenth amendments or any legislation implementing such amendments; or if there are any such incidents:

"(1) the incidents have been few in number and have been promptly and effectively corrected by State or local action;

"(2) the continuing effect of such incidents has been eliminated; and

"(3) there is no reasonable probability of their recurrence in the future."

(3) The laws of the State and its political subdivsions or of a political subdivision with respect to which a determination has been made pursuant to section 4(b) of this title as a separate unit provide and have been implemented to effectuate:

"(a) An opportunity for every eligible citizen of voting age residing therein to register to vote including the opportunity to register during evening hours on a reasonable number of days each month and on a reasonable number of Saturdays and Sundays of each month;

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

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

"(d) reasonable provision for minority representation among election officials at polling places where minorities are registered to vote;

"(e) apportionment plans which assure equal voter representation;

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

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

"(h) adequate opportunity for minority representation in all local governing bodies where eligible minority citizens of voting age exceed twenty five per centum of the eligible citizens of voting age residing within such political subdivisions.

"If the Attorney General determines that he has no reason to believe that such State or political subdivision has not complied with each of the above requirements, then he shall consent to the entry of such judgment, and the Attorney General shall, upon request, advise in advance of litigation whether in his opinion the above circumstances exist. The court shall retain jurisdiction of any action pursuant to this paragraph for ten years after judgment and shall

reopen the action upon motion of the Attorney General alleging that a voting qualification, prerequisite, standard, procedure or practice has been used with the purpose or effect of denying or abridging the right to vote on account of race or color or in contravention of the guarantees set forth in section 4(f)(2).

"The Director of the Census shall make determinations appropriate to this section upon request of such State or political subdivision and such determination shall not be reviewable in any court and shall be effective upon publication in the Federal Register.

"For purposes of this section, the term minority shall mean a person who is a member of a minority race or color or a member of a language minority group as defined in section 14(c)(3)."

Mr. BUTLER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BUTLER. Mr. Chairman, if H.R. 6219 is passed in its present form, and if 100 percent of the blacks or minorities in Virginia, South Carolina, North Carolina, Georgia, Mississippi, Alabama, and Louisiana vote in every election between now and August 1985, each of those States will still remain under the Voting Rights Act and will continue to be required to submit every change in its voting procedure to the Attorney General of the United States, who was elected by nobody, for his approval.

There is no way, under the provisions of H.R. 6219, that any of these covered jurisdictions can escape the burdensome provisions of the act because of a recent opinion of the Supreme Court of the United States saying, in effect, that the modest literacy test employed in Virginia in 1964 is conclusively presumed to have been used to discriminate against minorities.

This is in conflict with the original intent of the Congress to permit the covered jurisdiction to overcome a rebuttable presumption of discrimination.

Mr. Chairman, I will try not to trespass too long upon the time of the House, but I do think it is important, and I do think it is important to understand the situation in which we now find ourselves under the Voting Rights Act of 1965, as extended.

The purpose of that act was to make available certain voting rights; and to protect voting rights, it brought certain jurisdictions under the coverage of the act.

Under the Voting Rights Act of 1965, those jurisdictions which had a literacy test and less than a 50-percent turnout, were brought under the coverage of the act. As a result of a recent Supreme Court decision in Virginia against the United States, it is now held that those States are conclusively presumed to have used their literacy test to discriminate and, as a result of that, they cannot prove, in fact, that the literacy test was not used for that purpose, and therefore there is a conclusive presumption which in effect says that none of those States can come out from under the coverage of the act for another 10 years, if the act is extended.

The purpose of my amendment is to remedy this situation by permitting the covered jurisdictions to work their way out from under the burdens of the Voting Rights Act.

Mr. Chairman, because of the noise in the Chamber, will the gentleman from California object if I move over to the other microphone?

Mr. EDWARDS of California. Mr. Chairman, if the gentleman will yield, we will be delighted to have the gentleman move over there permanently.

Mr. BUTLER. I thank the gentleman.

This is really the sort of an amendment, Mr. Chairman, that we would expect to arise from this side of the House, because it really represents an effort that everybody would want to take, and it is an amendment that ought to be listened to because it goes to some place that we ought to be going to and where we do not seem to be going.

As I say, Mr. Chairman, the purpose of my amendment is to remedy the situation by permitting the covered jurisdictions to work their way out from under the burdens of the Voting Rights Act by adopting an affirmative course of action to discharge their obligation under the 15th amendment. I have called the amendment the "impossible 'bailout' amendment", because it was not possible to meet those requirements, and it is not possible to meet those requirements without a radical change in the voting procedures in the covered jurisdictions.

This amendment has been drafted, has been tested, and it has been redrafted many times since it was first introduced before the subcommittee and, indeed, the final changes were made only this morning, changes which were made to accommodate the objections of the members of the subcommittee and the full committee, and others, the most recent changes were made in response to the objection of the counsel for the Civil Rights Commission, and the Assistant U.S. Attorney General who is charged with the responsibility of oversight in this area. In my view the amendment, I submit, meets all of those substantial and technically drafting objections which have been called to our attention.

The amendment would be valuable not only in providing bailout for the covered jurisdictions, but also in overcoming two objections which have been raised.

I would like to first address myself to the question of the constitutionality of the Voting Rights Act as it now exists. I have already mentioned the States which are covered jurisdictions, and are now unable to get out from under the burdensome duties, and these jurisdictions that are now covered, with the adoption of an additional 10 years' coverage, will be covered for a period of 20 years based on a triggering device which occurred in 1964.

This is an example of the overactive doctrine which is perfectly clear in case law.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. BUTLER was allowed to proceed for 3 additional minutes.)

Mr. BUTLER. Under this doctrine it is perfectly clear that where the remedy exceeds the ailment, or exceeds the injury which it is endeavored to be legislated against, then the legislation becomes unconstitutional, otherwise we find ourselves in a situation where the State of Virginia, a covered jurisdiction, cannot come out from under the act for 20 years because of an infraction which took place in 1964.

In addition to that, the other factor which was called to the attention of the subcommittee was the lack of incentive of the covered jurisdiction to change their legislation at that time.

There is no incentive to change the legislation because we are frozen into existing law by the Voting Rights Act, and any changes must be taken from Washington to the Attorney General of the United States for his approval before they can be effected.

The purpose of this amendment is to provide that these covered jurisdictions can come out from under the act by providing an incentive for an affirmative course of action.

There are three requirements which must be met in order to come out from under the act under this amendment. The first is that we must have a 60-percent turnout—a 60-percent turnout of minority voters; that is greater than we have ever had anywhere else before—in the Presidential and Federal elections beginning in 1976. That is a 60-percent turnout.

After that there are two other circumstances. We must have 5 years of purity under the Voting Rights Act. That means that there are 5 years in which there have been no substantial objections under the Voting Rights Act to the Attorney General of the United States or in the district court, and these are spelled out in detail in the amendment, and they have been carefully considered.

Finally, there must be an affirmative legislative program in effect and in fact to provide against the problems which turned up in our hearings about discrimination which still continues. We have a number of items here which were called to the attention of our committee by the Voting Rights Commission, and the legislation before us, and the purpose of our amendment, would require that a State would come out after meeting these first two requirements and meet the third for a legislative program along the lines which meet each one of these objections. They were enumerated carefully before us, and they are set forth with a great deal of care in this amendment.

The way we get out from under it is we meet these three requirements and then have a declaratory judgment proceeding along the lines already provided for a "bailout," which have been taken away from us by a recent decision of the Supreme Court of the United States.

The value of this amendment is that it removes the States, the covered jurisdictions, from their locked-in position where they cannot do anything or make any changes without the burdensome conditions of the act. It gives them an in-

centive and inspiration to affirmatively change their laws to work to the advantage of the minority to urge them to vote to eliminate the impediments to their voting and to their registration, and affirmatively inspire them to vote.

This makes the 15th amendment to the Constitution of the United States a meaningful thing, and it makes the Voting Rights Act an effective thing. It overcomes the real shortcomings of the act.

Mr. CONYERS. Mr. Chairman, would my colleague yield?

Mr. BUTLER. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank my colleague for yielding.

I would like to raise the question of whether or not the gentleman is aware that two States have been granted "bailout" since the Court decision. The Gaston County case that the gentleman cited prevents anyone from bailing out.

Mr. BUTLER. Yes, sir; I am aware of that. The two Alaska cases were consent decrees, but I believe the other one was a New York case; was it not?

Mr. CONYERS. Yes, New York.

Mr. BUTLER. I appreciate very much the gentleman's bringing this up because I think it puts the finger on the real problem here. The Gaston case said when we have a separate but unequal school system and a literacy test, then we are conclusively presumed to use that literacy test to discriminate, and we cannot, therefore, go to court and prove that the literacy test was not used to discriminate, and that the statute permits.

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

(By unanimous consent, Mr. BUTLER was allowed to proceed for 1 additional minute.)

Mr. BUTLER. The effect of this is to say that one cannot come into court as the statute says one can and prove that the literacy test was not used to discriminate because it is conclusively presumed that the literacy test was used to discriminate, and one cannot get out from under the act, and it is manifestly unfair.

Mr. CONYERS. Would the gentleman yield further?

Mr. BUTLER. It would be my pleasure.

Mr. CONYERS. I thank the gentleman for yielding.

The point I was simply making was that the Gaston decision has not prevented State "bailouts" subsequently.

Mr. BUTLER. The point the gentleman makes is wrong. The State of Virginia has just been denied the right to get out from under the statute because of the Gaston doctrine and that is the situation in all of the covered States that had separate but unequal school systems prior to 1964. I appreciate the gentlemen's interest but I am disappointed in his scholarship.

Mr. EDWARDS of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by the gentleman from Virginia (Mr. BUTLER).

Mr. Chairman, the gentleman from Virginia (Mr. BUTLER) offered this amendment in the subcommitee and it was rejected, and again in the full committee and it was rejected, albeit by a very close vote.

The amendment offered by the gentleman from Virginia (Mr. BUTLER) is not supported by any civil rights group. It is not supported by the Civil Rights Commission.

I think I should point out that the administration bill on the extension of the Voting Rights Act (H.R. 2148) has no such change in the bailout procedure. As a matter of fact, there was no change at all. So I urge rejection by the Committee of the Whole of the Butler amendment. It would destroy a bailout procedure which has worked very well, and as the gentleman from Virginia (Mr. BUTLER) himself points out, it would overrule two very good Supreme Court decisions, one the 1975 Supreme Court decision.

The gentleman from Virginia (Mr. BUTLER) claims the bailout really does not exist, but as he pointed out in the dialog with the gentleman from Michigan (Mr. CONYERS), there are two recent decisions in Alaska and New York where the bailout was used succesfully.

I am suggesting that the bailout is workable and this House should not change the formula simply because Virginia and one county in North Carolina have not been successful.

The gentleman from Virginia (Mr. BUTLER) claims that there is no incentive to make a progressive change in the election laws because the *Gaston* decision prevents bailout. I find that hard to understand. In no case has the Attorney General denied approval of changes in voting laws by Virginia or any other State when the changes in voting laws were nondiscriminatory. I am sure the gentleman from Virginia (Mr. BUTLER) is not claiming that escape by bailout from voting rights coverage is the only way we can improve voting procedures.

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

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

Mr. BUTLER. Mr. Chairman, on yesterday the gentleman from California and I and the chairman of the committee engaged in debate. The chairman told us about the problem that still exists in that voting places are still in some awkward places. People who desire to vote are not getting an opportunity because of the inconvenient hours of the registrar in some cases. All of these things continue to persist. These are the complaints. After 10 years of the Voting Rights Act, if we have not cured those, maybe there is a deficiency in the Voting Rights Act. One deficiency is there is no incentive for a jurisdiction which is frozen into its place in the law to make any change.

Mr. EDWARDS of California. I thank the gentleman, but there are literally thousands of changes in voting laws and improvements by covered jurisdictions that have been assented to by the Attorney General.

Mr. YOUNG of Georgia. Mr. Chairman, will the gentleman yield?

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

Mr. YOUNG of Georgia. Mr. Chairman, I would like to point out to the gentleman from Virginia that in the State of Georgia every school principal was deputized as a registrar and every public high school in the State was allowed to register its 18-year-olds. In my particular county the county registrars went even further and deputized every bank in the district as a place of voter registration and every public school in the district. Under those situations it was relatively easy to register and vote, but still, even in that district we need the Voting Rights Act as it is now, because the key to the voting rights now is preclearance.

Under the preclearance statute, all that has to be done to make a change is that a letter has to be written to the Attorney General. There were 4,476 such letters which went to the Attorney General, and he questioned only 163 cases. Certainly that is not punitive.

The effect of the Voting Rights Act as far as I can see certainly warrants any continuation that we as a Congress might be able to grant.

Mr. EDWARDS of California. I thank the gentleman from Georgia.

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

Mr. EDWARDS of California. Mr. Chairman, I ask unanimous consent that I may proceed for 3 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

Mr. BUTLER. Mr. Chairman, reserving the right to object, will the gentleman give me an opportunity to reply?

Mr. EDWARDS of California. The gentleman knows I will.

Mr. BUTLER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. EDWARDS of California. Mr. Chairman, following what the gentleman from Georgia pointed out, Mr. J. Stanley Pottinger, the Assistant Attorney General, Civil Rights Division, testified before our subcommittee and described the procedure for getting approval under the preclearance, and, to use his own words, they simply "drop a description of the proposed change into the mail."

In the great State of Virginia we have information to the effect that in Richmond only one person part time is used to comply with section 5.

Lastly, and then I will yield to the gentleman from Virginia (Mr. BUTLER), the bailout that the gentleman from Virginia (Mr. BUTLER) suggests is described in approximately 150 lines of the CONGRESSIONAL RECORD, nearly 1,000 words.

It is described in a letter to me of May 16, 1975, from the Civil Rights Commission as "creating new and difficult problems of standard procedures and management."

I suggest that it is full of vague standards, "reasonable probability" and "adequate opportunity." I am afraid it would invite years of litigation and a paralysis

of the very best Civil Rights Act we have had in this country.

Mr. Chairman, I now yield to the gentleman from Virginia (Mr. BUTLER).

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

I am a little bit embarrassed that the gentleman has given me so much material, but I will work my way back, if I may, by referring to the letter from the Civil Rights Commission. I want to thank the gentleman for making available to me a copy of the letter from the Civil Rights Commission which discusses in such detail my amendment.

I do want to explain that it did stay on the gentleman's desk 10 days before I got it and I only got it yesterday, but I want to say I appreciate the gentleman's generosity in letting me see that letter about my amendment. I have gone back and reviewed my amendment with it in mind and I think the gentleman will find we have taken the objectives into consideration.

I appreciate also the reference of the gentleman from California (Mr. EDWARDS) in reference to the Assistant Attorney General about how easy it is to send a submission to Washington and how easy it is to get a reply.

It is also indicated, he testified, it takes 54 days to get acceptance of a routine submission and 67 days when there is some kind of objection.

He mentioned in the hearings these procedures—maybe I ought to tear off the pages again—1, 2, 3, 4, 5, 6, 7, 8, 9, 10 pages of our record, and this is fine print. The gentleman cannot read it from there, but it is here. And I will tell the gentleman there are 10 pages of regulations and procedures on the Voting Rights Act. That beats the heck out of putting a dime on a letter and mailing it.

It is a difficult procedure, and as the gentleman mentioned, just one man in the office, just one Assistant Attorney General for Virginia is concerned with this.

In each of the 134 separate jurisdictions in Virginia we have to have someone familiar with the Voting Rights Act in order to make a submission and we have to have periodic seminars in Virginia so they will be acted on and be correct.

We have had 2,200 changes in our voting laws that have been submitted by Virginia. It is a nuisance. It is a burden that we ought to be allowed to get out from under.

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it may seem strange that one who is supporting the extension of the Voting Rights Act would rise in support of the amendment of the gentleman from Virginia (Mr. BUTLER).

Nevertheless, I think this amendment is in complete suport of the full voting rights for all Americans. This really gets to the crux of what the Voting Rights Act is all about. This Act is not intended to superimpose upon the States interminably the authority of the Federal Government, but it is designed to correct voting procedures which have deprived persons of the equal opportunity to vote in various jurisdictions—and to provide extraordinary remedies.

Now, the original act was recommended to be effective for 10 years. We are getting to the end of that 10-year period, yet there is no opportunity today under the extension of the act, unless this amendment is adopted, for any of the seven Southern States of the Old Confederacy to be relieved from the burdens of this legislation, unless the amendment is adopted.

It seems to me that what the gentleman from Virginia (Mr. BUTLER) has offered will promote voting rights. It may seem strange, as well, that he would offer the amendment because I cannot conceive of a person or State wanting to be subjected to the kind of humiliation or the kind of admissions that are imposed in order to accomplish this kind, of what he calls, an impossible bailout. But if he does want to, it seems to me that we should give him and the other jurisdictions that opportunity.

In the requirements under the present law, there is no opportunity to bailout, no opoprtunity to be relieved of it because it applies to the facts as they existed in 1964, and we cannot change those facts, but, if they can demonstrate that during the intervening period, for a period of 5 years, they did not discriminate, that they have got 60 percent or more of the population that is voting and that there is no disparity between blacks and whites who are voting in the jurisdiction, why in the world should we not give them an opportunity to be relieved?

There is this other safeguard also: There is the safeguard that for a period of 10 years—for a period of 10 years—the court would retain jurisdiction so that if there was some kind of a subterfuge employed, we could go back and apply the 1965 act against them again.

It seems to me that he has provided the kinds of protections that any of us would want in order to assure fair and equitable nondiscriminatory voting rights within their jurisdiction, without violating any civil rights whatever. I agree that the Voting Rights Act of 1965 is perhaps the landmark piece of civil rights legislation. So it is, but I believe also that the bailout amendment, this so-called impossible bailout, would restore civil rights and dignity and autonomy to the States that are mandated under the present legislation to be subjected to registrars and observers and the preclearance provisions, and other requirements. I think that opportunity should be provided. I think it should be encouraged, and this is the way it seems to me that we can encourage it.

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

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

Mr. CONYERS. Mr. Chairman, I would like to try out some better scholarship with my colleague from Illinois. Was he aware that he said that there was no bailout possible now under the existing voter rights legislation? Did I hear him correctly?

Mr. McCLORY. The gentleman heard me correctly if he understood me to say that the facts we assumed at the time we enacted the 1965 act are the facts that determine whether or not the jurisdictions are subject to title II of the existing Voting Rights Act, yes.

Mr. CONYERS. The gentleman knows that our laws are subject to Supreme Court modification?

Mr. McCLORY. Let me add this: If we made inaccurate findings, then of course there would be an opportunity, but unless we made inaccurate findings, they would be subjected to the Federal controls imposed automatically. Those controls will continue to be imposed for another 10 years if this act is extended for another 10 years, unless we give the opportunity for bailout as suggested in the amendment offered by the gentleman from Virginia.

Mr. CONYERS. The gentleman knows that Alaska and New York have bailed out since the Gaston decision?

Mr. McCLORY. Yes. They never should have been subjected to it, and this new bill tries to subject Alaska again. They will bail out again, I venture to say.

Mr. CONYERS. But that is what we would want. If they are eligible to be released from the effect of the law, they should.

Mr. McCLORY, No, we do not want to take any arbitrary action against Alaska or any other State. What we want to do is to be fair and equitable with all the States, and we want to encourage them to apply fair and nondiscriminatory voting and registration practices. It seems to me that this amendment would contribute to that goal.

Mr. DRINAN. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

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

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

Mr. MIKVA. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Virginia (Mr. BUTLER) the so-called bailout amendment, and in support of the committee bill. In particular, I oppose that part of the Butler amendment, as well as other amendments, which propose to weaken or eliminate the provisions of section 5 of the Voting Rights Act.

Section 5 of the act requires review of all voting changes prior to implementation by the covered jurisdictions. This review may be conducted by either the U.S. District Court for the District of Columbia or by the Attorney General of the United States. The provisions of H.R. 6219 amend the act so that the special remedies, including section 5 preclearance, will be operative for an additional 10 years.

Mr. Chairman, now is not the time to remove preclearance protections from the act. As the Supreme Court stated, in upholding the constitutionality of section 5:

> Congress knew that some of the States covered by Section 4(b) of the Act had resorted to the extraordinary stratagem of contriving new rules of various kinds for the sole purpose of perpetuating voting discrimination in the face of adverse federal court decrees.

The adoption of such measures, including the switching to at-large elections or annexations of predominantly white areas, might take place in the future unless section 5 is maintained. Mr. Chairman, I urge the defeat of this amendment.

Mr. DRINAN. Mr. Chairman, it has been stated here that there is a conclusive presumption that a particular jurisdiction cannot bail out. All of the facts are contrary to that. The fact is, only two jurisdictions have failed to bail out, and unfortunately one of them involves Virginia and the other North Carolina.

I am quite certain that if the distinguished gentleman from Virginia (Mr. BUTLER) had been the attorney for Virginia in that particular case, the result might well have been the opposite. In that particular case, the decision went contrary to Virginia because Virginia did not move forward and carry the burden of proving—and this is the essential question—it did not prove that Virginia's provision of a segregated education did not affect the voting rights of its people.

I quote from the decision here in the district court of the District of Columbia.

I think, therefore, that the entire background of these two States which have not carried the burden of exculpating themselves or removing themselves from the act should be examined.

In Virginia, for example, in 1970, 19.1 percent of the population was black; 39.1 percent of that black population was totally unschooled. The Court rightly went back to the legislative history of the Voting Rights Act as extended in 1970 from the 1965 act and pointed out that one of the key questions involved in the legislative history is the interrelationship between inferior segregated schools and the ability of blacks or minorities to register and to vote.

And the Court concluded that Virginia had not indicated sufficient evidence to demonstrate that the segregated and inferior schools in Virginia over a long period of time had not, in fact, depressed the number of minority people that actually voted.

And I quote from the decision of the U.S. District Court for the District of Columbia:

> The final link in the Gaston County argument is the causal connection between the maintenance of inferior schools for blacks and their lesser ability to pass Virginia's literacy requirement.

The fact is, that when this case was brought, Virginia had corrected the deficiencies of that bad year in the mid-1960's when the Prince Edward schools were closed for a year.

The fact is that lawyers did not carry forward the burden of proof with all of the evidence that was in fact available to them, with the result that in the decision of the court Virginia was not removed from the act. The U.S. Supreme Court affirmed with three dissents and without full arguments.

I say to the Members of the House that I do not think we can conclude anything from this case and from the Gaston County case out of North Carolina. We cannot conclude anything except that in these two particular cases the States involved did not carry the burden of demonstrating, and I quote from the U.S. Supreme Court, "that the dual educational system had no appreciable discriminatory effect on the ability of persons of voting age to meet a literacy requirement."

In both cases—North Carolina and Virginia—they were seeking to reinstate a requirement for literacy for all voters, and in both cases the Court, really with great reluctance, stated that, "We cannot remove Virginia or North Carolina from the particular section of the Voting Rights Act."

I do not think that these two cases support the sweeping generalizations that are in the Butler amendment.

Let me mention just one of those. In his amendment, the gentleman from Virginia (Mr. BUTLER) states this: That at all times during the past 5 years preceding the filing of the action, there has been no "final" judgment of a Federal or State court ruling.

That would mean that in the 5 years if there had been any type of temporary injunctions, restraining orders, administrative difficulties, negotiations, all of that would not be taken into account. You have to have a final judgment of a Federal or a State court before anything happens under his act.

This would really bring us into a land of fantasy where the real world of subtle discrimination against voters would not really be taken into consideration by the court.

I therefore say that I oppose the amendment offered by the gentleman from Virginia (Mr. BUTLER), and I do so with great reluctance because he has been a very devoted member of this subcommittee and he obviously feels that his own State has been treated unjustly. But I do not think—to repeat and conclude—that that justifies a vote for the Butler amendment.

Mr. FRENZEL. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I start out with a very heavy prejudice in favor of this bill, and I intend to support the bill whether this worthwhile amendment is passed or not.

However, Mr. Chairman, I think that the gentleman from Virginia (Mr. BUTLER) has very correctly pointed out that we are looking at a punitive piece of legislation. It is legislation that does not allow a State which may in fact want to improve its statutes and its voting rights to rejoin the rest of the Union and to escape the preclearance requirements eventually even if in fact it does provide for its citizens all of the voting rights which we all expect every person in this country deserves. Why could we not have put some incentives into the bill?

Mr. Chairman, I am a little disappointed in the committee. Yesterday the gentleman from Alaska (Mr. YOUNG) pointed out they had not bothered to figure out what was going on in Alaska; the gentleman from Texas (Mr. GONZALEZ) pointed out some other deficiencies; and the gentleman from Colorado (Mr. JOHNSON) asked why we could not have court cases throughout the rest of the country, and he was informed by the committee that we could not do it because the Attorney General likes to centralize his activities in Washington; never mind what anybody in Colorado or Arizona or California wants.

I think what we have done is we have brought up a bill that is very popular, one that all of us are going to vote for, but we have not included provisions that will fit some of our modern conditions. We ought to be passing a law which says to those States that have not done the job, "You are going to be hooked," and to those who have done the job, "You are going to get unhooked."

This bill does not provide that. As I said, I am going to vote for this bill anyway, but we muffed a chance to improve it.

Mr. Chairman, I think the gentleman from Virginia makes a very good point. I feel very strongly about human rights and voting rights of any kind, but I think we are looking backward when we use a 10-year-old criteria to do the job of protecting rights. We should be progressive enough to include a provision to encourage States to improve their voting laws. We should give the States the incentive to improve their voting procedures so that they can escape from the burden of preclearance.

Mr. Chairman, I am disappointed in the committee. I support the amendment offered by the gentleman from Virginia, and I hope it is adopted.

Mr. Chairman, I began my study of H.R. 6219 with a heavy prejudice in favor of it. I am a cosponsor of legislation to extend the Voting Rights Act. Despite the debacle here yesterday, I still shall support H.R. 6219.

Very few Members will vote against the Voting Rights Act extension, and I surely shall not.

But, after hearing the floor debate yesterday, I cannot escape the conclusion that the committee has done its job poorly.

Time and again yesterday, Members raised searching questions and legitimate criticisms of the committee's work. Seldom was the committee's work defended persuasively. I was left with the impression that the committee yawned its way through a batch of friendly testimony, concluded "everybody" was for an extension, and therefore, passed an extension with a few additional frills.

Unfortunately for the committee, the floor discussion indicated that some of what was extended was anachronistic; that some of the new material was founded on no data; and that much of the old and the new was not very carefully scrutinized by the committee.

The committee has simply extended a 10-year-old law for another 10 years. There are few changes, of course, but, basically, we are being asked for a simple extension, not an improvement, and surely not a national Voting Rights Act. In another 10 years, I suppose we will be asked to extend a 20-year-old law another 10 years.

Much in the Voting Rights Act deserves extension. But, described in its worst, the extension seems to give no incentives

to covered States to improve procedures, and it seems to give no opportunities to cover States now uncovered. In other words, if a State is hooked, it cannot get unhooked. If a State is unhooked, it cannot get hooked. No State law or combination of laws is good enough to earn release from preclearance. No law is bad enough to earn coverage under preclearance.

As a nonlawyer, I have some trouble getting a clear picture of this act. I cannot see why it is not a good idea to write a new bill which gives both a positive incentive to covered States to work their way out of preclearance and negative incentive to other States to avoid mistakes which would lead to inclusion under preclearance procedures.

The act seems to me to be a backward looking concept. I think we need a positive, forward-looking bill. As I understand it, the extension means that a State like Virginia, which now has a modern, in some respects a model, voter registration law, cannot escape the preclearance procedures for the next 10 years. States, such as Massachusetts, which has a raging education segregation problem in its principal city, cannot possibly be covered by the preclearance procedures.

It is true, of course, that the extension of the existing Voting Rights Act and the adoption of a truly national voting rights law can be considered as separate questions. The committee, and the Attorney General, are apparently telling us so. I would not object to separate consideration, but I doubt that the committee will take up voting rights again after this bill has passed. We need the expiration of the VRA to force consideration of the whole question. We will only have this one chance.

I am advised that Minnesota is not covered by title II, and that only two counties, Cass and Beltrami, are covered by title III. My State can be included under preclearance procedures, but only if the Attorney General finds discriminatory practices, sues the State and the court determines that preclearance is a good remedy. That is a combination of circumstances that has not occurred during the 10-year lifetime of the act. Obviously the VRA contains no incentives for my State.

I am also concerned about estimates of voting age population, on which several sections of the act depend. Take the State of Maryland, for instance. Using population estimates of its State board of health, which assume that 55.2 percent of its population is eligible to register, Maryland Board of Election Laws reported that about 2.8 million of its people were eligible for registration in 1974. To Maryland, its 1.7 million registrations represented more than 76 percent of eligibles.

To the Census Bureau, however, those same 1.7 million Marylanders represent 62.5 percent of voting age population. The difference arises from Maryland's assumption of 55.2 percent and the census assumption of 65 percent for voting age population as a percentage of total population.

This difference amounts to about 400,000 voters. It is 10 percent of total population, but equals more than 40 percent of those voting in Maryland in 1974.

The Census Bureau says 34 percent of Maryland's voting age population voted in 1974, but Maryland says nearly 42 percent of its citizens eligible to register actually voted. These are substantial differences, and they illustrate the folly of relying on the absolute accuracy of any Census Bureau estimates. The Bureau does a good job, but, in my judgment, its estimates, like all estiates of voting age population or of population eligible to vote, are purely estimates and should be used as estimates, not as hard and fast benchmarks.

One of the excellent features of the bill, for which I commend the committee, is the addition of the 14th amendment. Now, in addition to the 15th amendment, citizens are given the additional safeguard of the "equal protection amendment."

I shall, as I said previously, vote for the extension, but I cannot help "cursing the chance that was wasted." Yesterday, Member after Member—the gentleman from Alaska (Mr. YOUNG), the gentleman from Colorado (Mr. JOHNSON), the gentleman from Texas (Mr. GONZALEZ), the gentleman from Virginia (Mr. BUTLER), the gentleman from Illinois (Mr. MCCLORY), the gentleman from California (Mr. WIGGINS), raised questions and identified problems. The committee members commented, but nobody answered their thoughtful inquiries very well. The committee has taken the easy way out and has given a 10-year-old answer to a current and most important problem. That is not bad for a majority leadership whose economic ideas are 40 years out of date, but its less than the country deserves.

Mr. BADILLO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I wish to compliment my colleague, the gentleman from Virginia, for his skill in getting all of the members of the committee to focus on a problem that does not exist, because he acts as if all of the Southern States are eagerly trying to bail themselves out. He does not mention that in January of 1975, this year, the Commission on Civil Rights issued a report which all of us have received, and that report indicates that in every jurisdiction that is covered by this act, including the State of Virginia, there have been barriers to registration, barriers to voting, barriers to candidates, obstacles set up in redistricting, and obstacles set up in annexation.

In the very State of Virginia there have been 10 cases since 1970 where the Attorney General has objected to what the State of Virginia or its local jurisdictions were trying to do, because they deprived the black people of that State of the right to vote and of the right to properly elect candidates.

So that if we examine just the objections that the Attorney General made, we find that there were 50 in 1971, 32 in 1972, 27 in 1973, and 30 in 1974. And that is only because the jurisdictions knew that if they tried anything else, the Attorney General would object.

If that provision were not there, it would be different. If the Gaston case had never been decided, the State of Virginia would not have a prayer of getting away from this act, because we know of the attempts that they made in the city of Richmond alone to bring about annexation.

So let us not have anybody be fooled into thinking that all of these States have been complying with the act and they just cannot escape, even though they say they have all been pure

Mr. BUTLER. Mr. Chairman, will the gentleman yield on that point?

Mr. BADILLO. Yes, certainly.

Mr. BUTLER. Mr. Chairman, I think the gentleman has put his finger on the problem. The gentleman from New York has been kind enough to enlighten us on part of the hearings in this very case.

But what he did not make clear was that we were foreclosed, conclusively presumed to have discriminated and foreclosed from proving that this literacy test had not been used to discriminate which is the bailout under the statute.

Mr. BADILLO. But that is irrelevant because I have just quoted from the report 5 cases in 1971 where there were objections by the Attorney General, and 10 cases since that time. In other words, the State of Virginia has not been absolutely pure, and it is not that they are being foreclosed. If the Gaston case had never been decided, I am willing to go along with the gentleman to the Supreme Court—forget about the Gaston case—and on the basis of these cases, Virginia could not get out.

Let me make this point because of the limitations of time. The gentleman asks what incentive there is for the States to come out from under the act. That sounds good when it is put that way, but suppose I were to say to the gentleman, what incentive is there to believe in democracy? What incentive is there to give people the right to vote? What incentive is there to obey our Constitution? What incentive? That is what this country is all about.

What is wrong with saying to these States, "Let us comply with the 15th amendment?" If all of them comply with the 15th amendment, we will not need this bailout provision. We could all come back on the day that they comply, and everyone in this Congress would vote to repeal the Voting Rights Act once and forever. That is the incentive, the incentive of obeying the mandate of the Constitution, the incentive of believing that the promise of democracy should be available to all.

Mr. BUTLER. Mr. Chairman, if the gentleman will yield further, may I say to the gentleman that I share that opinion.

Mr. BADILLO. Then that is all we need.

Mr. BUTLER. However, it would be nice if we could get out from under this act by proving ourselves out and improving the voting opportunities.

Mr. BADILLO. Then prove it within the act.

Mr. BUTLER. We can prove it if we are allowed to.

Mr. BADILLO. Just a moment.

Mr. BUTLER. Now the gentleman is trying to act like the Supreme Court. The Supreme Court will not let us prove. Let me tell the gentleman something.

Mr. BADILLO. The Supreme Court did not mandate that in 1971 the gentleman's State should try to redistrict in the city of Richmond to prevent blacks from being registered. The Supreme Court has not mandated that every technique be used in the State of Virginia to keep blacks from being registered.

There is nothing that the Supreme Court has said that prevents any State or any part of this country from giving people the right to vote. Action is only taken and objections are only filed when people are deprived of the right to vote. The Attorney General has never objected to any jurisdiction giving people an unlimited right to register and to vote.

The CHAIRMAN pro tempore (Mr. STUDDS). The Chair wishes to announce that the House is in session and would like to remind the persons in the gallery that no demonstrations of any kind are in order.

Mr. MITCHELL of Maryland. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise, of course, to oppose the Butler amendment.

It is my understanding, from an earlier colloquy on the floor with the gentleman from Virginia, that one of the reasons for the Butler bailout was that the States wanted to be cleared from the "onerous," "nuisance" requirements of the Federal Government in protecting voting rights.

Those requirements may appear to be "a nuisance," and they may appear to be "onerous," but I think that if anyone has ever lived through the kind of situation that some of us in this House have lived through, he will see why the requirements are so necessary.

I recall that earlier the gentleman from Virginia said that there was some talk about "measuring the size of the door of the voting booth" and other kinds of "onerous" requirements.

Let me go back to 1970, when Maryland elected its first black Congressman. That black Congressman was elected from the Seventh Congressional District. We have no problem with voter registration in the State of Maryland or in the city of Baltimore, but we did have a great problem with that particular election. I seek to show the chain of events I will speak about could be used by recalcitrant political subdivisions on solely a racial basis.

In the Seventh Congressional District where for the first time a black man sought to enter Congress, the most curious chain of events developed; and I would state that had it not been for the protection of the Federal Government, perhaps I would not be standing in this Chamber today.

Voting machines from the Seventh Congressional District simply disappeared, then when an assessment was made of where they had disappeared from, it was found they had disappeared from the areas of the heaviest concentration of black voters.

In the city of Baltimore during the 1970 campaign two voting machines were found 3 weeks after the election ended.

All of these incidents were concentrated in the black portion of the Seventh Congressional District.

Let me go on a bit further in terms of "onerous" requirements of the law.

In one polling place in the black portion of the Seventh Congressional District, the voting booth was located in the basement of an old house, the machine was almost in a closet therefore, if anyone attempted to open the door and go in and vote, the space inside was so small that one could not pull the lever to register his or her vote, few of the black citizens were able to vote that day in that particular polling place.

Onerous requirements?

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

Mr. MITCHELL of Maryland. Not at this point. I will yield later.

A later survey revealed that something like 23 percent of the polling places were late in opening in that election in 1970, and of the 23 percent of the polling places that were late in opening, the vast majority of them were concentrated in the black portion of the Seventh Congressional District.

I have no reason for questioning the gentleman's motives, nor his integrity but having lived through that experience I am sure one can understand what might happen if we did not have those requirements I am sure of what would happen if some political subdivision really wanted to pursue racial segregation or to further discrimination in voting and decided to embark on such a course. One can see what would happen, despite the fact that we have the law, despite the fact that there might be the right to vote, unless those requirements were there for the protection and safeguarding of the minority voters.

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

Mr. MITCHELL of Maryland. I yield to the gentleman from California.

Mr. WIGGINS Mr. Chairman, the gentleman from Maryland has made a powerful case that the Seventh Congressional District of Maryland in Baltimore ought to be covered under the act, because the gentleman has described to the House the discriminatory practices which occurred in 1970. But that district, as the gentleman knows, was not covered under the Voting Rights Act. So this simply demonstrates quite persuasively to us all the uneven manner in which this act is applied.

Mr. MITCHELL of Maryland. No, that interpretation is entirely wrong. Maryland is not covered under the act, and it is quite possible that this was done solely on the basis of political rather than racial reasons.

The point I wanted to make to the gentleman, if I may continue, is that a political subdivision of a jurisdiction which did not want, or sought to prevent voter participation on the basis of race, obviously would find these kinds of techniques very effective.

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

Mr. MITCHELL of Maryland. I am happy to yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I would like to point out that the Butler amendment, as I read it—and I have read it again just a moment ago—that under that amendment there must be a 5-year period when there has been no incident of voting irregularities in the district, or any change of election rolls, and 5 years is the basis on which the bailout is permitted, so that this is to encourage the legality of voting and the kind of nondiscrimination needed if they want to bail out.

Mr. MITCHELL of Maryland. That is precisely the point I was trying to make. There is no law in Maryland that says black people cannot vote. We are not covered under the Voting Rights Act. However it is possible for a State to go through the charade of apparently effectively clearing the barriers to voter registration on the part of minorities and then to implement the kind of things that occurred by my district in the 1970 election. Without the Civil Rights Acts persons denied the right to vote by such tactics would have no real protection, no recourse.

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

(On request of Mr. SARBANES, and by unanimous consent, Mr. MITCHELL of Maryland was allowed to proceed for 2 additional minutes.)

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

Mr. MITCHELL of Maryland. I yield to the gentleman from Maryland.

Mr. SARBANES. Mr. Chairman, I thank the gentleman for yielding.

I would like to point out to the gentleman from California (Mr. WIGGINS), with respect to the point he made concerning coverage under the Voting Rights Act, the important thing to realize is that the conditions in the 1970 election about which the gentleman from the Seventh Congressional District spoke were corrected by the State itself and steps taken to insure that they would not be repeated in the next election.

They were conditions which stemmed from the actions of certain people involved in a political matter with perhaps a discriminatory effect, but the State itself took corrective action to insure that this would not happen again. It was that same State which had so properly and fairly conducted the nature of its voter registration and participation in the political process prior to that time that it was not appropriate for Maryland to be under the Voting Rights Act. It is an entirely different situation when you talk about a State like Maryland which has had proper voting procedures than what is involved here. Recall the references made by the gentleman from New York (Mr. BADILLO) about continued efforts which have required the Attorney General to interpose objections to changes which some of the covered States have sought to effect with respect to their electoral laws and the participa-

tion by their people in the electoral process.

We had a situation in Maryland in which there was a departure from proper standards in a State which had met those standards in the past and which moved resolutely and quickly to insure that there would be no repetition of such an event, and that makes the situation talked about there properly distinguishable with respect to the coverage under the act.

Mr. MITCHELL of Maryland. I am sorry; my time is up.

I simply want to say to my colleagues that I think I stand here as living testimony as to why there should be the Voting Rights Act in fact and an overwhelming defeat of the Butler amendment.

The CHAIRMAN. The time of the gentleman has expired.

Mr. KINDNESS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think we have heard some interesting ideas expressed here that I am still trying to figure out. Maryland had a situation that has been discussed in the foregoing colloquy that obviously could not have been corrected by the State of Maryland had it been one of the covered States under the Voting Rights Act, without preclearance with the Attorney General.

All right, we all know that is the case. Maryland could not have been so ably represented here to proudly say, "We corrected the situation ourselves."

I think the gentleman from Virginia (Mr. BUTLER) has pointed out repeatedly that the problem associated with the current condition of the Voting Rights Act is that the States that are covered, based on 1964 facts, do not have the incentive, do not have the same real ability, to improve their situation that is afforded to the State of Maryland. Why should our law be static rather than dynamic?

I think the amendment of the gentleman from Virginia suggests to us all that the basic purpose of the Voting Rights Act was to accord fairness to everyone, and that really the same fairness ought to be accorded to the States that are covered States.

We all know that there have been occasions in the State of Illinois—I will not mention which county; all right, I will mention it: Cook—where the incidents of irregularity relating to voting have been brought to the attention of the whole Nation. Why should there be a different measure of fairness accorded to that State and its aberrations from the rights of persons in voting as compared to the seven original covered States?

I think, in fact, in the foregoing expression to the committee there have been so many unanswered questions that I would like to yield to my colleague, the gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. I thank the gentleman for yielding.

I will not trespass on his time, but I do want to make clear that I am having some difficulty getting an opportunity to reply to some of these things.

The gentleman from Massachusetts, I think, put his finger on what we are trying to do with this amendment. He referred to some drafting problems. He called attention to the drafting problems in which he mentioned something about no final judgment required in order to come out from under this thing under section 3 of the amendment. We have offered that amendment to provide in section 3(e) that there must be no incident of voting discrimination within the last 5 years. We talk about what happened, and we have tried to accommodate every one of the objections that has come to our attention in this fashion from various members of the committee and in the subcommittee, and from the gentleman from Maryland who mentioned the fact of the voting booth.

That is the problem. These things continue in the covered jurisdictions. But why should we in Virginia have that? But this is not a good illustration, because we have pretty good, moderate voting laws in Virginia. The record will show from 1965 to the present we have done pretty well, but we got caught on some other things. But the fact is there is no incentive to change these things. If we have the low hanging doors and the crowded voting booths, there is no incentive to change those. It takes more than a 10-cent stamp to change the location of the voting booth or polling place.

But if we pass my amendment in order to get out from under the act we have got to have a good affirmative program to change these things. I think it makes the 15th amendment a meaningful thing in the covered jurisdiction. I hope the Members will support my amendment. I did not fail so miserably in the committee. It failed by a vote of 17 to 17. It is a good amendment. It will make the 15th amendment meaningful.

Miss JORDAN. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, one would forget the thrust of the original legislation in 1965. One would think that legislation was passed because we wanted to institute a system of punishment and reward for persons obeying the law.

The law is in the Constitution of the United States in the 14th and 15th amendments. Under the Butler amendment we will say to these covered jurisdictions and States and localities who now for 10 years have not fully complied with the bill: "Be good little boys and girls under the Constitution of the United States. See to it that the minority citizens in your jurisdiction vote and we will in the Federal Government look away from what you are doing and let you continue your activities and remove our oversight from those activities."

Mr. Chairman, I do not think we are in the business of rewarding people who obey the law. That is not what we are trying to do. The pernicious effect of the Butler bailout provision is that it shifts the burden of proof from the litigant, the private party to the Attorney General. The burden of proof ought to be and it should remain on that person who is the party aggrieving. The burden of proof ought to be on the offending jurisdiction. The burden of proof ought to be and ought to remain on those persons who are guilty of violating the Constitution and guilty of performing the acts of discrimination which have the net effect of preventing and prohibiting equal access to the polls by the people.

The gentleman from Virginia (Mr. BUTLER) says in his amendment that the courts will retain jurisdiction of the proceedings for a 10-year period. But who is it after the passage of that time, once the jurisdiction gets out, who is it who will be the watchdog, the oversight, the lantern, the light to see to it that acts of discrimination do not again occur?

Then where will that burden of proof lie? It will be on the Attorney General of the United States and the Justice Department, and that negates the entire thrust of the original act.

If we are serious about what we are trying to do in enforcing the law and seeing that our citizens have access to the polls unimpeded and unfettered, if we want to guarantee that, I would suggest to the Members that no period of time is too long for a jurisdiction to do the things which are right, which are legal, which are lawful. That is why the amendment must be voted down.

Mr. MANN. Mr. Chairman, I move to strike the requisite number of words and I rise in favor of the amendment.

Mr. Chairman, I think the language of the gentlewoman from Texas with reference to burden of proof calls for comment. In American jurisprudence, or be it in equity, we conceive of the burden of proof as being a finite thing, an attainable thing. Yet we have the words of Mr. Pottinger, head of the Civil Rights section of the Department of Justice, and in essence the words of the Supreme Court saying:

> No, you are condemned. Be as good or better than your sister States, but you are condemned.

It is that inequity that is difficult to bear.

The word "incentive" has been used here. I agree with those who say there should be no incentive necessary to comply or obey the law or the Constitution.

But, Mr. Chairman, we are dealing with human nature, and we are dealing with the human impulse to resist being dragged kicking and screaming into compliance with something even when we know it is right. Yet when we have achieved that right, it is not recognized. We are still dragged kicking and screaming through the process. So it is because of those basic human problems that that county council or that State legislature or that city council is not going to engage in the affirmative act of amending the statute or changing the nature of the voting place or otherwise improving the availability of the right of the vote, since any efforts on their part to do so will be greeted with suspicion and with a suggestion that it is being done for a contrary purpose.

So let us realize that equity in this country consists of treating people alike, in allowing people to enjoy to some extent the fruits of their endeavors, to recognize their efforts toward fairness.

It is impossible to stand here today and say that prejudice does not exist in

Boston, that prejudice does not exist in Detroit, and that prejudice does not exist in South Chicago. So it is impossible to stand here today and say that this law should not apply equally to all the voters of this country, and, therefore, to hand to those to whom it does apply this sop, this shallow vessel of the Butler amendment, is much too little; but to a degree it says to everyone, "You do have a chance to show your purity, impossible as it may be."

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

Mr. MANN. I yield to the gentleman.

Mr. CONYERS. Mr. Chairman, when the gentleman refers to the cities of Boston, Detroit, and Chicago, is the gentleman somehow suggesting they are in violation of the Voter Rights Act of 1965?

Mr. MANN. As the gentleman from Detroit, I am sure, will recognize, the consequences of prejudice are broad and difficult to ascertain. Now, as they have manifested themselves in the gentleman's place, they have manifested themselves in other parts of the country where there was evidence, at least, that produced this bill with that formula which locked in forever those States.

Mr. CONYERS. Might I respond to my colleague, who serves with great distinction on the committee, that there has been no evidence that any of those cities or even the States in which those cities are located have produced any violations of the Voter Rights Act. Of course, there is discrimination and there is segregation and there is racism, unfortunately, in every city of every State in the United States; but that is not what we are dealing with today. We are dealing with the question of whether or not the Voting Rights Act should be extended and coverage included.

I cannot see how the city of Detroit bears any relevance to voter rights extension matters.

Mr. MANN. Well, in view of the fact that the failure of the covered States to achieve 50-percent voting participation in the Presidential election of 1964 caused them to be included in the act, it would appear that most of the States flunked this requirement in 1972, when only 38 percent of the Nation's eligible voters actually voted. But I think the real answer to the gentlemen's question is that the subcommittee handling this legislation did not conduct any substantial investigation with reference to voting practices in other parts of the country.

Mr. Chairman, the arguments for passage of H.R. 6219 are many and they are persuasive. But the one glaring shortcoming is so inequitable as to threaten not only House passage of this bill, but its very constitutionality.

I refer, of course, to the impossibility for covered jurisdictions to bail out from the sanctions set forth in section 5.

Although it has been repeated ad nauseum in the Judiciary Committee and in this Chamber, I think it is essential to once more draw your attention to the incredible testimony of Assistant Attorney General for Civil Rights J. Stanley Pottinger when asked whether Virginia—or, by implication, any Southern State—could come out from under the Voting Rights Act. He said, "I do not believe so." A simple statement. But, it could be the death knell for the noble purposes of the original Voting Rights Act of 1965, and it surely heralds a backslide to the most divisive, shameful period in our country's history, the post-Civil War era.

Now, all of you might not be as familiar as a South Carolinian with the major Supreme Court case challenging that 1965 act, South Carolina against Katzenbach, but one of the Court's bases in upholding the act was the very existence of a bailout clause. The Justice recognized the extraordinary invasion of States' rights embodied in this legislation, but felt the overriding importance of individual voting rights was sufficient to justfy such action.

But only barely.

And, one justification expressed was the very bailout provision that Mr. Pottinger and Virginia against the United States now tells us is inoperable!

We have heard a lot today about incentives—and lack thereof. Consider that the very sanctions designed to insure the one-man one-vote concept can, in the extreme, serve as an actual barrier to that goal. A State or locality is hardly likely to take more action than necessary on election laws when it is forced to go begging to Washington for approval of those actions. Thus, the admitted lack of a means to get out from under the Voting Rights Act precludes any real possibility of positive action to correct discriminatory State and local election laws which may predate the 1965 act. If the situation were not so unjust to my district and my region, it could only be described as farcical.

Frankly, Mr. Chairman, I find it difficult to understand how this House could accept the blatant inequity inherent in legislating national laws that apply only to certain jurisdictions—and I must admit, that inequity is so obvious that it is difficult to attribute objectivity to those who would perpetuate it. While I am gratified that the committee saw fit to extend the provisions of the Voting Rights Act to Spanish-speaking people and other language minorities, I am unable to comprehend the reluctance to extend the bill nationwide or, at least, to admit the possibility that covered jurisdictions can correct past mistakes.

As I read the "dear colleague" letters circulated on this bill, I was struck by the violent opposition expressed by several Members whose States include large Spanish-speaking populations and thus would be covered through the provisions of H.R. 6219. Is the prevailing attitude in fact that the high purposes of the Voting Rights Act are fine somewhere else, but not in our own backyards? That attitude hardly reflects the statesmanship to which we all aspire; it reflects instead a narrow regionalism that has no place in our National Legislature.

It would disturb me greatly to witness such unjust regionalism prevail here today, but I do not expect that to occur. I fully expect the House to accept a reasonable bailout amendment in the name of fair play, in the name of practical reality, in the name of justice. And I expect to support the voting rights extension for the same reasons.

If, however, I am wrong—if it is the will of this great House of Representatives to lock the Southern States into this punitive legislation in the finest Reconstructive-era style, I will support final passage. I will not vote my region in the face of an issue of national importance, I will vote my Nation. Because, realistically, I still perceive vestiges of voting injustices that exist in the South—as they exist throughout this country. If my colleagues from other areas are not willing to do as much, if they persist in isolating the South whenever the issue of civil rights arises, then they will be perpetuating inequities even as they claim to mitigate them.

Mr. DRINAN. Mr. Chairman, I move to strike the last word, and I ask unanimous consent to proceed for 2 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection?

Mr. DRINAN. Mr. Chairman, I would like to ask the gentleman from Virginia (Mr. BUTLER) to tell the committee precisely what happens after the Attorney General of the United States indicates that there is no reason to hold a particular State under the coverage of the act. The court shall, under the Butler amendment, retain jurisdiction for 10 years. The Attorney General shall reopen the act: But what happens when he reopens it? Is the preclearance procedure revived? Is the bailout abrogated? What precisely happens in such an instance?

Mr. BUTLER. Mr. Chairman, if the gentleman would yield, I would say to the gentleman that what would happen is what has happened in other cases in which there has been a rehearing. It is simply put back in the jurisdiction of the court and in the jurisdiction of the act.

Mr. DRINAN. Would the gentleman agree that this is not spelled out in the law? It is really quite ambiguous.

This point came up previously in the full committee. The language of the Butler amendment does not state that the penalties of the law will in fact be revived. It states that only the Attorney General can reopen the act. Would the gentleman just explain what precisely happens?

Mr. BUTLER. If the gentleman would yield further, this matter was under consideration in the committee concerning New York State against the United States. That citation is 65 Federal Rules decisions, page 10, January 18, 1974. I apologize to the gentleman. He did raise the point before we looked into it, and we came to that conclusion. My intention was to send the gentleman a copy of this case. We did cite it in our opinion.

Mr. DRINAN. But in the basic amendment which the gentleman is asking the committee to accept, there is a basic deficiency and vagueness and ambiguity which, in my judgment, is very serious.

Mr. BUTLER. If the gentleman will yield just a little further, this same am-

biguity, this same vagueness, exists in the Voting Rights Act itself, and it was resolved by this case. So, I would assume that in this case we would handle it in the same way.

Mr. FLOWERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it is very difficult to put into words what I want to convey to the Members here today. I think my friend from South Carolina did it perhaps more adequately than I can.

Also, my friend from Virginia has spoken to the point I want to speak to. I doubt if a Member who does not come from covered jurisdictions can quite speak with the same tongue as we can. I want to support this voting rights bill. But I cannot go so far as my friend from Illinois who said a while ago that this is perhaps, and probably must be, the most important civil rights legislation ever enacted by this Congress, because I cannot believe that we can feel that when it primarily affects 7 States out of 50.

Surely, there are some civil rights matters in the 43 other States that should require our attention that would be on the same meritorious level as the voting rights of citizens of 7 Southern States and a few other odds and ends covered jurisdictions. I cannot for the life of me understand the opposition to the amendment offered by my friend from Virginia.

I stand here in support of an amendment, and I really do not know why I am supporting it, I say to the gentleman from Virginia (Mr. BUTLER), because if there ever was an apropos word it is the word of the gentleman "impossible" as it pertains to this amendment.

It would be virtually impossible for my State or the State of the gentleman from South Carolina (Mr. MANN) or the State of the gentleman from Virginia (Mr. BUTLER), or any of the covered States, to come out from under the jurisdiction of this act under the terms of this amendment.

This is important to those covered States, and I want to try to convey to the Members why I think it is important. It would be at least some incentive for affirmative action. It would at least be some recognition by this Congress, this National Legislature, that this is indeed national legislation and not simply sectional legislation. The original 1965 act provided coverage for 5 years—a period in which great progress was made. Such progress was met with an additional 5-year extension in 1970. And, now, in 1975, after a period of further great progress, how can we justify a lengthy 10-year extension? Surely it is not the intent of this National Legislature to institutionalize forever this sectional legislation.

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

Mr. FLOWERS. I will be happy to yield to the gentleman.

Mr. McCLORY. I thank the gentleman for yielding. I want to express my support for the Butler amendment. I want to call attention to the fact that the Voting Rights Act does apply throughout the Nation. In case of discrimination, one can appeal to the Attorney General for relief. And, of course, we have a nationwide ban on literacy tests, and things of that nature.

Mr. FLOWERS. These are important, and I certainly did not intend for my remarks to fail to take these matters into account.

What we are doing in this Congress, based upon a tenuous record, at best, that the subcommittee has built here, we are attempting to be the judge and jury, to pass another sentence greater than the preceding sentence upon these seven covered jurisdictions. I do not think that is what we ought to do. I think—and I am afraid that this is true—that in the instance of some of our colleagues in this House—and I ask each Member to look inwardly because I do not attempt to pass judgment on another Member, but I suspect the potential is there—some Members could be voting for this bill because otherwise they might have to vote for a bill that would cover their own jurisdiction. I hope that that is not the case. But I would hope that all of us could support the Butler amendment and give some glimmer of hope based upon affirmative action to come out from under coverage. We are not asking that the bill be voted down or expire by its own terms, but let us at least give some hope of bailing out from coverage and the onerous burdens imposed by the act such as coming hat in hand to the Attorney General's office or the District Court of the District of Columbia to obtain approval of the slightest change in the election law of any covered jurisdiction.

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

Mr. FLOWERS. I will be happy to yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding. I would like to associate myself with the gentleman's remarks. I recognize how difficult it is to speak on this floor today against the measure and speaking for the Butler amendment.

Mr. FLOWERS. I would have to disagree. I do not think that speaking for the Butler amendment is speaking against the measure.

Mr. MAZZOLI. No, it is not. I am for the Butler amendment, and I do not think it is against the measure. But I say that is how it would be interpreted, and that is a very difficult and awkward position to be in. I think we are giving that glimmer of hope, giving some reason for the State to try to cure its problems that have occurred in the past. I think the gentleman made his case, the gentleman who preceded him in the well made his case, and I would say that anybody in this House could support the Butler amendment and still be for voting rights.

Mr. RODINO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I would like to point out, first of all, that while the gentleman from Alabama (Mr. FLOWERS) has expressed himself in support of the bill as such, it appears, however, that he seems to be seeking to provide the States that are now covered with a reward for saying they will live up to in the future what we believed the law required them to live up to during these past 10 years.

This was a law that provided to people who were entitled to vote but who had been discriminated against over a long period of time their right to vote. This was a situation where the experience and data were complete. We have now seen that there have been many more people registered, many more people turning out to vote, and many more elected officials who are black from those various covered States.

And yet we see the gap continues to exist. It has been presented to us by the Commission on Civil Rights, and they document instances where there has been subtle discrimination. This is a kind of discrimination that is not as obvious as it was in 1965, but it is there.

What does this demonstrate? It demonstrates that the bailout provisions were not discriminatory. It demonstrates that the kinds of triggering devices and the tests that were being employed in the past were discriminatory. There have been States and subdivisions which were exempted as a result of having sought preclearance, and we find that that bailout provision worked.

Why do we now go into something that is new and untested? Are we seeking to provide a reward for the individuals who are now saying they will live up to what was expected of them originally? What was expected of them was to provide citizens a right to vote without discrimination.

Mr. Chairman, I think we would be going into uncharted waters with this amendment. I think we would be committing a misjudgment. For the past 10 years we have sought to provide the people of America, regardless of race, color, creed, or national origin, the right to vote equally with other citizens, as they are entitled to do under the 14th and 15th amendments.

I cannot see why the gentleman from Virginia, who knows full well what the history of this act has been, would now want to say, "Let us chart a new course. Let us get away from the old ways." The old ways have been tested.

I direct my remarks to those who are believers in giving to individuals the right to vote, to those who extended this act in 1970 because it worked so well. And yet the gap still exists in those covered jurisdictions.

These are not just mere, small gaps; they are gaps that in my judgment should be closed. We can only close those gaps by continuing and extending the act. In that way I am sure we will really be providing the individual with the opportunity to vote without fear of discrimination. I am sure that fear would certainly exist if we were to attempt to try the Butler bailout provision.

For that reason, Mr. Chairman, I urge that this Butler bailout amendment be voted down.

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

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

Mr. McCLORY. Mr. Chairman, the chairman of the Committee on the Judiciary has made a very forceful argu-

ment, but as I view the record, the basis for the Butler bailout amendment is found in the testimony of Mr. Pottinger, in which he testified that if these certain requirements were met, then it would be appropriate for the States to be relieved of the Federal law. I am looking at page 77 of the report, and that testimony seems to support the Butler amendment.

Mr. RODINO. Mr. Chairman, the gentleman from Illinois, who has been a very attentive member of the committee, knows full well that the testimony that was presented was so overwhelming that, while there may be that reference to data by Mr. Pottinger, nonetheless the testimony was such that I think it will support the need to reject the Butler bail-out amendment because it is untested. With this amendment we would be going into an uncharted course, and I am sure this House would not want to make that mistake.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words.

I rise in opposition to the amendment.

Mr. Chairman, far beyond the substance of this bill, there is this fact: it is a promise and a hope.

I worked for 14 years in civil rights in my State as vice chairman of the New Jersey Committee for the U.S. Commission on Civil Rights, in a State which is not covered. I can imagine how some of those in covered States must feel. I am not unsympathetic, but this is something for the whole Nation, far beyond those States. This is a symbol, a hope, and a promise after so many years of injustice. This is a promise that injustice is going to end; I cannot sit here in this House and not speak.

This act goes far beyond those States that are covered. It is for all the people in this Nation. We cannot chip away at the Voting Rights Act with these amendments. We should move forward with every expectation of higher hopes and greater promise.

That is all I would like to say, Mr. Chairman.

Mr. YOUNG of Georgia. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, when my colleague, the gentleman from Alabama (Mr. FLOWERS), spoke and said, "You cannot know what it feels like to be under this act unless you come from one of the covered States," I felt that I had to stand before this House and tell the Members how it feels to be covered by this act. It surely feels wonderful.

I want to talk for a minute about these onerous provisions that my colleague the gentleman from Virginia, is concerned about. There are 533 southern counties covered by this act, 6 States, and 39 counties in North Carolina. Yet, in only 61 of these counties has there ever been any Federal examiner sent.

Some 1.5 million black citizens have been registered under this act, but there still remain to be registered another 2.5 million persons.

I think that when we look at what is happening in the South, we can see how much progress we have made. In fact, one of the reasons I really feel that we are able to move ahead of the district from which my colleague, the gentleman from Massachusetts, comes and perhaps the district from which my colleague from Detroit comes in racial relations is, in fact, the presence of a new spirit and a new participation in the democratic process.

There was a time when, in order to be elected from our part of the country, you had to present yourself at your worst. The man who was the chairman of my campaign, one of the best mayors that Atlanta ever had, had to run as a segregationist when he wanted to run statewide. It was a degrading experience.

Mr. Chairman, that is no longer true. Because of this act, we have been able to see people of all colors come into public office and express their best selves.

I would think that the so-called onerous provisions that the gentleman from Virginia is concerned about are no more onerous than the fact that I have to drive at 55 miles an hour. I do not like to drive at 55 miles an hour, but the situation in our Nation demands it. Therefore, the way to get out from under the law is to realize that it is in the best interest of the total country to comply with it.

I think that when we look at the facts that people were denied the right to vote and the right to run for public office for more than 100 years, and that at least a dozen friends of mine were shot down, killed, in order that this act might be passed. The gentleman from Virginia would give us the impression that this was all back pre-1965 and since 1965 things are getting better, but in every one of the covered States which submitted plans for reapportionment as a result of the 1970 census, everyone, without fail, was rejected by the Justice Department or the courts due to the fact that they were discriminatory. Therefore, I would contend that we need to continue this act as it is, and as it is proposed by the committee, and I urge that the Butler bailout amendment be defeated and that the bill be passed.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. BUTLER).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BUTLER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 134, noes 279, not voting 20, as follows:

[Roll No. 251]

AYES—134

Archer	Burgener	Conlan
Armstrong	Burleson, Tex.	Crane
Ashbrook	Butler	Daniel, Dan
Bafalis	Byron	Daniel, R. W.
Bauman	Casey	Davis
Bevill	Cederberg	Derrick
Breaux	Chappell	Devine
Brinkley	Clancy	Dickinson
Brooks	Clausen, Don H.	Downing
Broomfield	Clawson, Del	Duncan, Tenn.
Broyhill	Collins, Tex.	Edwards, Ala.
Buchanan	Conable	Erlenborn
Eshleman	Kemp	Robinson
Flowers	Ketchum	Rousselot
Flynt	Kindness	Runnels
Forsythe	Lagomarsino	Satterfield
Fountain	Landrum	Schulze
Frenzel	Lent	Shuster
Frey	Long, La.	Sikes
Gibbons	Lott	Skubitz
Ginn	Lujan	Smith, Nebr.
Goldwater	McClory	Snyder
Goodling	McCollister	Spence
Gradison	McDonald	Steiger, Ariz.
Grassley	McEwen	Stephens
Hagedorn	Mann	Symms
Haley	Martin	Talcott
Hansen	Mazzoli	Taylor, Mo.
Harsha	Michel	Taylor, N.C.
Hastings	Milford	Teague
Hébert	Miller, Ohio	Thornton
Hefner	Montgomery	Treen
Henderson	Moore	Udall
Hightower	Moorhead, Calif.	Vander Jagt
Hinshaw	Myers, Ind.	Waggonner
Holland	Myers, Pa.	Wampler
Holt	Nichols	White
Hutchinson	Passman	Whitehurst
Hyde	Patman, Tex.	Whitten
Ichord	Pettis	Wiggins
Jarman	Pickle	Wright
Jeffords	Poage	Wydler
Jenrette	Quie	Young, Alaska
Johnson, Pa.	Quillen	Young, Fla.
Jones, Ala.	Rhodes	
Kelly		

NOES—279

Abdnor	Dodd	Krebs
Abzug	Downey	Krueger
Adams	Drinan	LaFalce
Addabbo	Duncan, Oreg.	Latta
Ambro	Early	Leggett
Anderson, Calif.	Eckhardt	Lehman
Anderson, Ill.	Edgar	Levitas
Andrews, N.C.	Edwards, Calif.	Litton
Andrews, N. Dak.	Emery	Lloyd, Calif.
Annunzio	English	Lloyd, Tenn.
Ashley	Esch	Long, Md.
Aspin	Evans, Colo.	McCloskey
AuCoin	Evans, Ind.	McCormack
Badillo	Evins, Tenn.	McDade
Baldus	Fascell	McFall
Barrett	Fenwick	McHugh
Baucus	Findley	McKay
Beard, R.I.	Fish	McKinney
Bedell	Fisher	Macdonald
Bell	Fithian	Madden
Bennett	Flood	Madigan
Bergland	Florio	Maguire
Biaggi	Foley	Mahon
Biester	Ford, Mich.	Matsunaga
Bingham	Ford, Tenn.	Meeds
Blanchard	Fraser	Melcher
Blouin	Fulton	Metcalfe
Boland	Fuqua	Meyner
Bolling	Gaydos	Mezvinsky
Bonker	Giaimo	Mikva
Brademas	Gilman	Miller, Calif.
Breckinridge	Gonzalez	Mills
Brodhead	Green	Mineta
Brown, Mich.	Gude	Minish
Brown, Ohio	Guyer	Mink
Burke, Calif.	Hall	Mitchell, Md.
Burke, Fla.	Hamilton	Mitchell, N.Y.
Burke, Mass.	Hanley	Moakley
Burlison, Mo.	Hannaford	Moffett
Burton, John	Harkin	Moorhead, Pa.
Burton, Phillip	Harrington	Morgan
Carney	Harris	Mosher
Carr	Hawkins	Moss
Carter	Hayes, Ind.	Motti
Chisholm	Hechler, W. Va.	Murphy, Ill.
Clay	Heckler, Mass.	Murphy, N.Y.
Cleveland	Heinz	Murtha
Cohen	Helstoski	Natcher
Collins, Ill.	Hicks	Neal
Conable	Hillis	Nedzi
Conte	Holtzman	Nix
Conyers	Horton	Nolan
Corman	Howard	Nowak
Cornell	Howe	Oberstar
Cotter	Hubbard	Obey
Coughlin	Hughes	O'Brien
D'Amours	Hungate	O'Hara
Daniels, N.J.	Jacobs	O'Neill
Danielson	Johnson, Calif.	Ottinger
de la Garza	Johnson, Colo.	Patten, N.J.
Delaney	Jones, Okla.	Patterson, Calif.
Dellums	Jordan	Pattison, N.Y.
Dent	Karth	Pepper
Derwinski	Kasten	Perkins
Diggs	Kastenmeier	Peyser
Dingell	Kazen	Pike
	Keys	Pressler
	Koch	

Preyer	Sarbanes	Symington
Price	Scheuer	Thompson
Pritchard	Schneebeli	Thone
Randall	Schroeder	Traxler
Rangel	Sebelius	Tsongas
Rees	Seiberling	Ullman
Regula	Sharp	Van Deerlin
Reuss	Shipley	Vander Veen
Richmond	Shriver	Vanik
Riegle	Simon	Vigorito
Rinaldo	Sisk	Walsh
Risenhoover	Slack	Waxman
Rodino	Solarz	Weaver
Roe	Spellman	Whalen
Rogers	Staggers	Wilson, Bob
Roncalio	Stanton,	Wilson, C. H.
Rooney	J. William	Winn
Rose	Stanton,	Wirth
Rosenthal	James V.	Wolff
Roush	Stark	Wylie
Roybal	Steed	Yates
Ruppe	Steelman	Yatron
Russo	Steiger, Wis.	Young, Ga.
Ryan	Stokes	Young, Tex.
St Germain	Stratton	Zablocki
Santini	Studds	Zeferetti
Sarasin	Sullivan	

NOT VOTING—20

Alexander	Eilberg	Mollohan
Beard, Tenn.	Hammer-	Railsback
Boggs	schmidt	Roberts
Bowen	Hays, Ohio	Rostenkowski
Brown, Calif.	Jones, N.C.	Smith, Iowa
Cochran	Jones, Tenn.	Stuckey
du Pont	Mathis	Wilson, Tex.

So the amendment was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Roberts for, with Mr. Eilberg against.

Mr. Bowen for, with Mr. Jones of Tennessee against.

Mrs. Boggs for, with Mr. Hays of Ohio against.

Mr. Mathis for, with Mr. Rostenkowski against.

Mr. Stuckey for, with Mr. Mollohan against.

The result of the vote was announced as above recorded.

PERSONAL ANNOUNCEMENT

Mr. UDALL. Mr. Chairman, in the recorded vote on the amendment by Mr. BUTLER to title I of H.R. 6219, rollcall No. 251, I was improperly recorded as voting for the amendment. My vote should have been recorded against this amendment and I want the permanent RECORD to reflect my longstanding position against an amendment which would, in my opinion, have seriously weakened the purpose and scope of the committee bill. I ask unanimous consent that this statement appear in the RECORD, immediately following the vote on the Butler amendment today.

PERSONAL EXPLANATION

Mr. COHEN. Mr. Chairman, in the Judiciary Committee's report on the Voting Rights Act extension (Rept. No. 94–196), I am listed as ascribing to division B of the supplemental views concerning section 11 of the Voting Rights Act—See page 110 of the report. This is incorrect as I intended to ascribe to the stated views expressed in division A only, and not those stated in division B.

AMENDMENT OFFERED BY MR. KINDNESS

Mr. KINDNESS. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. KINDNESS: Page 1, line 6, strike out "twenty" and insert in lieu thereof "five", and strike out the period at the end of line 6 and insert in lieu thereof the following: ", and by adding at the end of the first paragraph of such section 4(a) the following: "Prior to August 6, 1980, no such State nor subdivision may petition the United States District Court for the District of Columbia for such declaratory judgment."."

Mr. KINDNESS. Mr. Chairman, this amendment affects section 101 of the bill that is before us today; but it really has to do with section 4(a) of the Voting Rights Act.

Section 4(a) reads in part as follows under the existing law:

To assure that the right of citizens of the United States to vote is not denied or abridged on account of race or color, no citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device in any State with respect to which the determinations have been made under the first two sentences of subsection (d) or in any political subdivision with respect to which other determinations have been made.

That means the original covered States or other States or subdivisions of States that have come in since 1965. The section continues as follows:

Unless the United States District Court for the District of Columbia in an action for a declaratory judgment brought by such State or subdivision against the United States has determined that no such test or device has been used during the ten years preceding the filing of the action.

The committee bill makes that read "twenty years" instead of "ten years." The amendment I propose changes the committee bill so that instead of reading "twenty," it would read "five." In the fever of the times in 1965 when the Voting Rights Act was first enacted, those references in that section 4(a) were to 5 years. When the Voting Rights Act was extended in 1970, the period of time was changed from 5 years to 10 years. Now, the committee bill would change it to 20 years. This amendment will restore the 5-year period, the concept that was originally contained in the Voting Rights Act. Twenty years is a long time. Let us look at what that 20-year period is used to measure.

First, it is used to measure the period of time during which the court must find that no test or device has been used to deny or to abridge the right to vote on account of race or color in a State or a subdivision which used a prohibited test or device, such as a literacy test, on November 1, 1964, and, the voter registration percentage on November 1, 1964, or the voter turnout in November of 1964 was less than 50 percent, or any State or subdivision which had the same kind of history in November 1968, before that State came out from under the special extraordinary provisions of the act.

Second, the 20 years that is in the committee bill would be used as a measure of another matter wherein the court cannot enter a declaratory judgment until 20 years after the final judgment which holds that a test or device was used to deny or abridge the right to vote on account of race or color. It seems to me that the authors of the original Voting Rights Act were right. Five years is long enough. The committee bill even provides in almost identical language for a 10-year period rather than a 20-year period in the case of language minorities. This amendment that I propose would make the period of time in all cases 5 years, uniformly with no difference between cases that are based upon the concept of voter discrimination with respect to race or color, on the one hand, or cases involving language minorities, on the other hand.

The committee bill distinguishes between those two, 20 years in the former case, 10 years in the latter case.

But, it does one more thing. This amendment provides that no State or subdivision may go into court to obtain a declaratory judgment to get out from under the special provisions of the Voting Rights Act until August 6, 1980.

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

(On request of Mr. EVANS of Colorado and by unanimous consent Mr. KINDNESS was allowed to proceed for 3 additional minutes.)

Mr. KINDNESS. That is a 5-year period from now during which no State could get out from under the extraordinary provisions of the act. I urge the Members to support the 5-year provision in place of the unreasonable 20-year provision so that again this may be a dynamic law and that we may see progress toward real improvement in the conditions of voting in the covered States.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I will be happy to yield to the gentleman.

Mr. EVANS of Colorado. Mr. Chairman, does the gentleman's amendment continue the existing act on all jurisdictions that it covers now for an additional 5 years, or would it be possible under the gentleman's amendment for jurisdictions covered by the act, having been made under the act for more than 5 years, by virtue of the gentleman's amendment to get out from under it?

Mr. KINDNESS. No; there would still be a hiatus until August 6, 1980, for all presently covered jurisdictions.

Mr. EVANS of Colorado. I thank the gentleman.

Mr. EDWARDS of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by the gentleman from Ohio.

Objections to this amendment lie in the fact that its adoption would probably jeopardize the constitutionality of the extension. While it lowers the period of proof to be sustained in a bailout action, the amendment also absolutely precludes the filing of any such action prior to 1980.

In upholding the constitutionality of this act, the Supreme Court in South Carolina against Katzenbach, pointed to the fact that the act acknowledges the possibility of the overbroadness of its trigger by providing for the bailout process for nondiscriminating jurisdictions which are caught under the act's application. Now, if we were to legislatively preclude the filing of such a bailout action for a definite number of years, as Mr. KINDNESS proposes, this would certainly be running counter to any safeguards against overbroadness, safeguards which Chief Justice Warren pointed to with apparent approval in the

South Carolina decision. The Kindness amendment would, in clear terms, make the bailout provision a nullity.

While it is true that the state of the law under Gaston County does already preclude successful bailout actions for jurisdictions that have offered unequal and inferior educations to their minority citizens, such an interpretation denying or precluding release under those circumstances has been judicially determined to be mandated under the statute. What this amendment proposes is something which is radically different. Its absolute prohibition of a bailout action for a set number of years, irrespective of a jurisdiction's past record in terms of education or achievements in minority voting rights, would be treading on constitutionally dangerous ground.

Furthermore, it simply cannot be suggested that this amendment would have virtually no effect since all covered jurisdictions are already frozen-in under the Gaston County doctrine. While it is true that inferior school systems for minority children might be found in areas throughout the country, we simply cannot irrebutably presume that all of the covered towns in Massachusetts, Connecticut, New Hampshire, and Maine would be unsuccessful in a bailout, as were Gaston County, N.C. and the State of Virginia. To adopt this amendment would mean that the former jurisdictions would be precluded from even making the attempt. As drafted, the Kindness amendment would also preclude bailout actions by jurisdictions newly covered under H.R. 6219 before 1980. Clearly, those newly covered areas which have not discriminated should not be unjustifiably frozen under the act for 5 years, as the Kindness amendment proposes.

In short, the Kindness amendment does more than simply shorten the burden of proof period in bailout actions. It effectively "extends" the act for 5 years by not merely shortening the period of proof, but by also absolutely prohibiting the filing of bailout actions before 1980. In light of court decisions interpreting the Voting Rights Act, this method of extension, destroying totally all safeguards against overbroadness, is most likely unconstitutional and should, therefore, be rejected.

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

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

Mr. KINDNESS. Mr. Chairman, do I understand the gentleman from California, the chairman of the subcommittee, to be saying that the fact that no bailout action could be taken until August 6, 1980, is considered objectionable other than on the basis cited?

I point this out because I think we have seen the will of the House expressed on the last amendment. The Members do not want the covered States to be out from under the extraordinary provisions of the act at all.

This amendment attempts to meet this objection somewhere in the middle, at least halfway.

Mr. Chairman, the arguments heard against the Butler amendment and against this amendment now seem to be rather inconsistent, and I am having trouble reconciling them.

Mr. EDWARDS of California. Mr. Chairman, under H.R. 6219, if adopted as it has been written—and so far it has not been amended—we have a number of jurisdictions that might be covered who would be entitled to bailout, and it would be most unfair under the gentlemen's amendment if none of these jurisdictions could bail out; they would have to wait until 1980.

Mr. KINDNESS. Mr. Chairman, will the gentleman yield further?

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

Mr. KINDNESS. Mr. Chairman, do I understand, then, that there should be one rule that applies to jurisdictions that have been covered since 1968, and another, that is a different rule, for those jurisdictions that were originally covered in 1964?

That is why I ask the question. It it unfair that those jurisdictions covered more recently would not have a chance to bail out before 1980, when we have heard that it is all right for the original covered States to have no way to bail out.

The CHAIRMAN. The time of the gentleman from California (Mr. EDWARDS) has expired.

(By unanimous consent, Mr. EDWARDS of California was allowed to proceed for 20 additional seconds.)

Mr. EDWARDS of California. Mr. Chairman, the rule is the same. A number of jurisdictions have bailed out since 1965, and so the rule is no different than it is in this case.

Mr. LOTT. Mr. Chairman, I move to strike the last word, and I rise in support of the Kindness amendment.

Mr. Chairman, I think the Kindness amendment provides a reasonable period for this so-called purity. It provides that no escape can take place under the act prior to August 6, 1980. The period of purity is reduced from 20 years to 5 years.

As I understand H.R. 6219, section 4 (a) extends the purity period for an additional 10 years, until 1985. During this additional 10-year period a State may petition the Federal District Court in the District of Columbia for a declaratory judgment against the United States, determining that no test or device has been used discriminatorily for 20 years prior to the filing of the case. That means if a State tries to bail out under this act in 1976, it would have to prove there had not been any voting rights discrimination back to 1956.

Mr. Chairman, that is bad enough. But the thing that really bothers me is this: As I understand H.R. 6219, no declaratory judgment shall issue with respect to any plaintiff for a period of 20 years after the entry of a final judgment of any court of the United States determining that there has been voter discrimination.

Mr. Chairman, here is the question I have, and I would like to address this question to the gentleman from Ohio (Mr. KINDNESS), if I may:

Am I correct in my understanding of this bill as it presently exists that should a Federal court rule in 1985, for instance, that tests or devices were used discriminatorily anywhere in a State to abridge voting rights, even if for the next 19 years or even 20 years it was perfectly in compliance with this act, that State will be held under this act until the year 2005? Is that correct?

Mr. KINDNESS. Mr. Chairman, the gentleman is correct. And it would be subject to the extraordinary provision of the law regarding preclearance or any changes of its laws or regulations relating to election procedures.

Mr. LOTT. So no matter what they do in the next 20 years, after that ruling in 1985, no matter how pure they might be and how hard they might try to comply with the act in every way, they could not bail out from under this act until the year 2005; is that correct?

Mr. KINDNESS. Mr. Chairman, if the gentleman will yield, I will state that the gentleman is correct.

Further than that, under one interpretation of the language in the committee bill it could be contended that, based on 1964 conditions, the 20-year period beyond that would apply before a declaratory judgment could be sought.

If we take it together, extending the act for another 10 years, we could be tacking on forever to the period of time that would be involved. One interpretation is so extreme that we could tack two 20-year periods together. I am inclined to believe that only the interpretation the gentleman suggests is correct, that the 1985 extension by a State could give rise to coverage until the year 2005.

Mr. LOTT. Mr. Chairman, I thank the gentleman for his comments.

Mr. Chairman, I think that 20 years is an unnecessary extension of the act and, in fact, a punishment of States that try to act in good faith. The Kindness amendment, which provides for 5 years, is more than sufficient.

For the life of me, I cannot understand why this body will not make this act apply to the entire Nation. This is an extremely punitive piece of legislation aimed primarily at a few Southern States. Should not the same provisions apply to New York as Mississippi? The Wiggins substitute and the Butler substitute have already failed, making it virtually impossible for my congressional district to get out from under this act. I implore my colleagues, as fellow Americans, not to hold what may be innocent States in bondage until the year 2000.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. KINDNESS).

The question was taken; and on a division (demanded by Mr. KINDNESS) there were—ayes 36, nays 55.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. HYDE

Mr. HYDE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HYDE: Page 2, immediately after line 6, insert the following:

"SEC. 103. Effective one day after the date of the enactment of this Act, section 5 of the Voting Rights Act of 1965 is repealed."

Mr. HYDE. Mr. Chairman, I want to make it unmistakably clear at the out-

that I do support the Voting Rights t of 1965 and I support its extension. I pport, for the most part, the methods which the laudable goals of this rthwhile legislation are sought to be plemented.

I also will assert that, in my judgment, e right to vote is much more impor- nt than any other civil right, including en the right of free speech. It does t do anyone much good to be permitted speak if he cannot implement his ws by voting.

As a matter of fact, living as a member the minority political party in the unty of Cook, State of Illinois, I have very sensitive grasp of how important ual access to the ballot box is.

Unfortunately, it seems to me that this gislation does not go far enough be- use having one's vote counted is just important as having it cast; and this ll does not address itself to that prob- m at all.

The thrust of my amendment is to say mply that the 15th amendment can- ot repeal the 10th amendment.

Section 5, as we all know, requires a vereign State to come, hat in hand, to Vashington, D.C., and appear before n appointed official of the Federal Gov- rnment and get a preclearance for any anges in its laws, whether it be a con- itutional amendment, whether it be n annexation, a zoning law, or any law nat remotely will affect the right to vote.

is inconceivable to me that under our ederal system, a sovereign State of the nited States of America has to come o an appointed official, whether it is the ttorney General or whether it is the ecretary of the Department of Trans- ortation, and get approval before a vereign State can have its laws im- lemented.

I am well aware of the case of *South Carolina* v. *Katzenbach*. I read it several times. In my opinion, if I may be so presumptuous, the majority opinion is woefully inadequate in discussing or even addressing the violence done to the 10th amendment by its interpretation of the 15th amendment.

It would be very difficult for me to improve upon the language of Mr. Justice Black in his dissenting opinion. Let me just quote in part from that opinion:

> 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. Moreover, it seems to me that section 5 which gives federal officials power to veto state laws they do not like is in direct conflict with the clear command of our Constitution that "The United States shall guarantee to every State in this Union a Republican Form of Government." 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 far-away 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.

Section 5 of this act reduces a sovereign State to the equivalent of an administrative district of the Federal Government, and, no matter how reasonable or how well intentioned the means to the end are, it seems to me this is a violation of, and is repugnant to the concept of our Federal Government.

So I say simply that section 5 demeans, it degrades, and it even disembowels State sovereignty.

I do not believe that States have rights. I believe that people have rights, but I believe also that States have powers. States exist under our Constitution, and if we want to change the Constitution then let us do it by amendment and not by passing a law.

I would also remind my colleagus that the States created the Federal Government—not the other way around. And in this Bicentennial year I think it might be well to dwell upon that.

Let me also state that the judicial power to strike down an unconstitutional law is a long, long way from the power to prevent a State from passing the law or amending its constitution in the first place.

Those Members who are so sensitive to the civil rights cause and to the obscenity cases have brought up the matter of prior censorship, and that is what section 5 of this act is to a sovereign State of the United States; it is prior censorship of its law, and this is something that is unauthorized by our Constitution. No matter how much we want to breathe life into the 15th amendment, we do not have to embalm the 10th amendment in doing so.

I respectfully urge support for my amendment.

Mr. EDWARDS of California. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, section 5 of the Voting Rights Act has now become the most important provision of the legislation. Today, enforcement of section 5 is the highest priority of the voting section of the Department of Justice's Civil Rights Division. In recent years, the number of Justice Department section 5 objections has greatly increased. The Department has entered objections to changes submitted from a number of jurisdictions, including Arizona, Georgia, Louisiana, Alabama, Virginia, North Carolina, and New York. I include a table:

NUMBER OF SEC. 5 OBJECTIONS INTERPOSED BY THE DEPARTMENT OF JUSTICE, BY STATE AND YEAR, FROM 1965 TO 1975 [1]

State	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	Total
abama	0	0	0	0	10	1	2	6	1	2	0	22
izona [2]						0	0	0	1	0	1	2
lifornia [2]						0	0	0	0	0	0	0
orgia	0	0	0	4	0	0	5	11	8	9	0	37
iho [2]						0	0	0	0	0	0	0
uisiana	0	0	0	0	2	0	19	8	6	2	0	37
ssissippi	0	0	0	0	3	1	13	2	8	1	1	29
w York [2]						0	0	0	0	1	0	1
rth Carolina [2]	0	0	0	0	0	0	6	0	0	0	0	6
uth Carolina	0	0	0	0	0	0	0	4	3	12	0	19
ginia	0	0	0	0	0	1	5	1	0	3	0	10
oming [2]						0	0	0	0	0	0	0
Total	0	0	0	4	15	3	50	32	27	30	2	163

[1] Through Feb. 28, 1975.
[2] Selected county(ies) covered rather than entire State.

Source: U.S. Department of Justice (hearings, 185).

The recent objections entered by the ttorney General of the United States to ction 5 submissions clearly bespeak the ntinuing need for this preclearance echanism. As registration and voting minority citizens increases, other easures are resorted to which dilute in- easing minority voting strength. Such her measures include switching to at- rge elections, annexations of predomi- antly white areas, or the adoption of iscriminatory redistricting plans— earing, 1187–1232. In fact, the Justice epartment has recently entered ob- ctions, at the State and local level, to at-large requirements, polling place changes, majority vote requirements, staggered terms, increased candidate filing fees, redistrictings, switches from elective to appointive offices, multimember districts, and annexations—hearings, 183–185. In each of these objection situations the submitting jurisdiction failed to meet its burden of satisfying the Attorney General of the nondiscriminatory purpose or effect of the proposed change.

In its report, the Judiciary Committee concluded—

> That it is largely Section 5 which has contributed to the gains thus far achieved in minority political participation, and it is likewise Section 5 which serves to insure that that progress not be destroyed through new procedures and techniques.

Section 5 of the Voting Rights Act must not be repealed and, I, therefore, urge that the Hyde amendment be rejected.

Mr. ARMSTRONG. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I would like to inquire, for the purpose of clarification, if I may have the attention of the chairman of the subcommittee, am I correct that the pre-

clearance procedure in this bill applies to statutory enactments of State legislatures to reapportion and redistrict for the purposes of their State legislatures, and for their congressional district. Is that correct?

Mr. EDWARDS of California. For covered jurisdictions, yes, and that is a very important part of section 5.

Mr. ARMSTRONG. To be specific, by "covered jurisdictions" we mean those jurisdictions which are newly covered, not just those which have been covered prior to this time.

Mr. EDWARDS of California. Those that would be covered under title II of the amended act, yes.

Mr. ARMSTRONG. Let me refer to my own State of Colorado which will come under the provisions of this act, if it is enacted, for the first time. El Paso County, Colo., a county which comprises approximately 10 percent of the population of the State of Colorado, will be covered by this act. Running through that county are a number of legislative district boundaries which, as I understand it, could not be changed by the State legislature as they lie within El Paso County, without the preclearance of the Attorney General.

Mr. EDWARDS of California. My understanding is that your understanding is correct.

Mr. ARMSTRONG. Similarly, the boundaries which separate two of the State's five congressional districts run through El Paso County, so we could not redistrict without the approval in advance of the court or of the Attorney General?

Mr. EDWARDS of California. If the facts are that El Paso County has been caught unfairly by the trigger, then El Paso County can apply to be relieved from the provisions of the act.

Mr. ARMSTRONG. I thank the chairman for that explanation. I would like at another time when I will offer an amendment, perhaps, to respond to the specific issue of whether or not El Paso County may have been unfairly caught, along with some other counties.

But now I want to make this point, that at least in my own mind this is the most important issue in the bill. Are we going to make the States beggars, as my colleague, the gentleman from Illinois (Mr. HYDE) has asked? It seems to me that we are going much too far by the action of this bill.

As a member of a State legislature. I participated in redistricting and reapportionment on three occasions. I learned it is a very complex area of the law. It is difficult not only for legal but for practical reasons, and we are placed in the position of having to obtain all kinds of compromises made necessary by both Federal and State constitutional requirements. To impose the additional burden on the State legislature and the citizens of my State of having to go to an unelected Federal official, it seems to me, is not only wrong in theory but imposes very great practical impediment to reapportionment and redistricting.

I have spoken about my State and about a particular county in my State, but it seems to me the principle applies equally in other States covered by the act. For this reason I urge support of the amendment offered by my friend, the genlteman from Illinois (Mr. HYDE).

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. ARMSTRONG. I will be pleased to yield to my colleague from Colorado.

Mr. EVANS of Colorado. I thank the gentleman for yielding.

With the permission of the gentleman, I would like to direct a question to the chairman of the committee because I do not think his response was as clear as I would like to have had it on the question of redistricting congressional districts. The gentleman from Colorado and I share El Paso County. I have 32⅓ counties in my district, and I am not sure how many counties are in the gentleman's district adjacent to mine; but the gentleman from Colorado posed the question to the chairman since one county that is split into two congressional districts will be covered under title II, El Paso County, the question to the gentleman was under those circumstances before those congressional districts could be reapportioned, would such a plan have to be presented to and approved by the Attorney General?

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

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

Mr. EDWARDS of California. I thank the gentleman for yielding.

It would seem to me that that portion of the plan drawn by the State legislature affecting El Paso County would have to be approved.

Mr. EVANS of Colorado. I thank the gentleman for yielding.

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

Mr. ARMSTRONG. I yield to my friend, the gentleman from California.

Mr. WIGGINS. I thank the gentleman for yielding.

We all know, as practical, working politicians, that redistricting is a very interrelated process. It is almost impossible to change one district without affecting all districts. In those States such as Colorado, where only a few counties may be caught, the practical effect of requiring preclearance of one county's redistricting plan is the submission of the entire State's redistricting plan to the Attorney General for his approval. The same is true with respect to other laws affecting voting which have statewide application. Since such statewide laws will apply to a covered county, preclearance will be required. In effect, therefore, the entire State is covered.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. HYDE).

RECORDED VOTE

Mr. HYDE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 105, noes 300, not voting 28, as follows:

[Roll No. 252]

AYES—105

Archer	Flowers	Milford
Armstrong	Flynt	Montgomery
Ashbrook	Fountain	Moore
Bafalis	Frey	Moorhead, Calif.
Bauman	Ginn	Nichols
Bevill	Goldwater	O'Brien
Breaux	Gonzalez	Passman
Brinkley	Hagedorn	Poage
Brooks	Haley	Quillen
Brown, Ohio	Hansen	Rhodes
Broyhill	Harsha	Robinson
Buchanan	Hefner	Rousselot
Burgener	Henderson	Satterfield
Burke, Fla.	Hightower	Scheuer
Burleson, Tex.	Hinshaw	Shuster
Butler	Holland	Sikes
Byron	Holt	Smith, Nebr.
Casey	Hutchinson	Snyder
Cederberg	Hyde	Spence
Chappell	Ichord	Steiger, Ariz.
Clancy	Jarman	Stephens
Clausen, Don H.	Jones, Ala.	Symms
Clawson, Del	Kazen	Taylor, Mo.
Collins, Tex.	Kelly	Treen
Conlan	Kemp	Vander Jagt
Crane	Ketchum	Waggonner
Daniel, Dan	Kindness	Wampler
Daniel, R. W.	Lagomarsino	White
Derwinski	Landrum	Whitehurst
Devine	Lott	Whitten
Dickinson	McCollister	Wiggins
Downing	McDonald	Wright
Duncan, Tenn.	McEwen	Young, Alaska
Edwards, Ala.	Mann	Young, Tex.
Erlenborn	Martin	
	Michel	

NOES—300

Abdnor	Davis	Hicks
Abzug	de la Garza	Hillis
Adams	Delaney	Holtzman
Addabbo	Dellums	Horton
Ambro	Dent	Howard
Anderson, Calif.	Derrick	Howe
Anderson, Ill.	Diggs	Hubbard
Andrews, N.C.	Dingell	Hughes
Andrews, N. Dak.	Dodd	Hungate
Annunzio	Downey	Jacobs
Ashley	Drinan	Jeffords
Aspin	Duncan, Oreg.	Jenrette
AuCoin	Early	Johnson, Calif.
Badillo	Eckhardt	Johnson, Colo.
Baldus	Edgar	Johnson, Pa.
Barrett	Edwards, Calif.	Jones, Okla.
Baucus	Emery	Jordan
Beard, R.I.	English	Karth
Bedell	Esch	Kasten
Bell	Eshleman	Kastenmeier
Bennett	Evans, Colo.	Keys
Bergland	Evans, Ind.	Koch
Biaggi	Evins, Tenn.	Krebs
Biester	Fascell	Krueger
Bingham	Fenwick	LaFalce
Blanchard	Fish	Latta
Blouin	Fisher	Leggett
Boggs	Fithian	Lehman
Boland	Flood	Lent
Bolling	Florio	Levitas
Bonker	Foley	Litton
Brademas	Ford, Mich.	Lloyd, Calif.
Breckinridge	Ford, Tenn.	Lloyd, Tenn.
Brodhead	Forsythe	Long, La.
Broomfield	Fraser	Long, Md.
Brown, Mich.	Frenzel	Lujan
Burke, Calif.	Fulton	McClory
Burke, Mass.	Fuqua	McCloskey
Burlison, Mo.	Gaydos	McCormack
Burton, John	Gibbons	McDade
Burton, Phillip	Gilman	McFall
Carney	Goodling	McHugh
Carr	Gradison	McKay
Carter	Grassley	McKinney
Chisholm	Green	Macdonald
Clay	Gude	Madden
Cleveland	Guyer	Maguire
Cohen	Hall	Mahon
Collins, Ill.	Hamilton	Matsunaga
Conable	Hanley	Mazzoli
Conte	Hannaford	Meeds
Conyers	Harkin	Metcalfe
Corman	Harrington	Meyner
Cornell	Harris	Mezvinsky
Cotter	Hastings	Mikva
Coughlin	Hawkins	Miller, Calif.
D'Amours	Hayes, Ind.	Miller, Ohio
Daniels, N.J.	Hechler, W. Va.	Mills
Danielson	Heckler, Mass.	Mineta
	Heinz	Minish
	Helstoski	Mitchell, Md.

Mitchell, N.Y.	Rangel	Stanton, James V.
Moakley	Rees	Stark
Moffett	Regula	Steed
Moorhead, Pa.	Reuss	Steelman
Morgan	Richmond	Steiger, Wis.
Mosher	Riegle	Stokes
Moss	Rinaldo	Stratton
Mottl	Risenhoover	Studds
Murphy, Ill.	Rodino	Sullivan
Murphy, N.Y.	Roe	Symington
Murtha	Rogers	Taylor, N.C.
Myers, Ind.	Roncalio	Thompson
Myers, Pa.	Rooney	Thone
Natcher	Rose	Thornton
Neal	Rosenthal	Traxler
Nedzi	Roush	Tsongas
Nix	Roybal	Udall
Nolan	Runnels	Ullman
Nowak	Russo	Van Deerlin
Oberstar	Ryan	Vander Veen
Obey	St Germain	Vanik
O'Hara	Santini	Vigorito
O'Neill	Sarasin	Walsh
Ottinger	Sarbanes	Waxman
Patman, Tex.	Schneebeli	Weaver
Patten, N.J.	Schroeder	Whalen
Patterson, Calif.	Schulze	Wilson, Bob
Pattison, N.Y.	Sebelius	Wilson, C. H.
Pepper	Seiberling	Winn
Perkins	Sharp	Wirth
Pettis	Shipley	Wolff
Peyser	Shriver	Wydler
Pickle	Simon	Wylie
Pike	Sisk	Yates
Pressler	Skubitz	Yatron
Preyer	Slack	Young, Fla.
Price	Solarz	Young, Ga.
Pritchard	Spellman	Zablocki
Quie	Staggers	Zeferetti
Randall	Stanton, J. William	

NOT VOTING—28

Alexander	Hays, Ohio	Rostenkowski
Beard, Tenn.	Hébert	Ruppe
Bowen	Jones, N.C.	Smith, Iowa
Brown, Calif.	Jones, Tenn.	Stuckey
Cochran	Madigan	Talcott
du Pont	Mathis	Teague
Eilberg	Melcher	Wilson, Tex.
Findley	Mink	
Giaimo	Mollohan	
Hammer-schmidt	Railsback	
	Roberts	

So the amendment was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Eilberg against.

Mr. Roberts for, with Mr. Jones of Tennessee against.

Mr. Stuckey for, with Mr. Rostenkowski against.

Mr. Mathis for, with Mr. Hays of Ohio against.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there additional amendments to title I?

AMENDMENT OFFERED BY MR. TREEN

Mr. TREEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TREEN: Page 2, line 2, after "inserting", strike out "No", and insert "Prior to August 6, 1985, no".

Mr. TREEN. Mr. Chairman and members of the committee, I do not know how many of the Members were surprised, as I was—and I know that a number of us were because of my discussions on the floor—to find that, whereas this is basically a bill to extend the Voting Rights Act for 10 years, it contains a provision to ban, all voter qualification tests and devices forever, not just for 10 years. This ban in the bill is permanent.

"Test or device" is defined in the act to include several things, among which are the following: A test to "demonstrate the ability to read, write, understand or interpret any matter"; second, to "demonstrate any educational achievement or knowledge of any particular subject."

In other words, "test or device" goes far beyond a literacy test; to ban would prohibit any type of qualification that a person understand or have knowledge of anything whatsoever. And this bill would prohibit that for all States forever.

In 1965, when this legislation was originally enacted, we targeted several States and counties and suspended these tests or devices in those States. Certainly argument could be made that that was relevant, because none of us could deny that these things were used for racial discrimination.

In 1970, when we amended this act, we then applied the ban to all States. I was not here then, but I still wonder how it was that it could be argued that the ban had to be applied to every State, because certainly there were some States in this Union that had never used a literacy test for any type of discrimination.

Mr. Chairman, all this amendment does is to take this provision which bans tests and parallel it in time with the other provisions which will expire in 10 years. This means that we can look at this again in 10 years and decide, as we look at the other provisions of the act which will expire, and we can determine whether or not we should continue a ban on all literacy and other types of tests. It gives us that opportunity.

Without this amendment we would foreclose ourselves from that opportunity.

I know that in many States there is not any type of questionnaire or any type of requirement that a person understand the least fundamental thing in order to vote. I can appreciate that some States do not want that requirement. Other States may wish to have it. Unless this amendment is adopted, none of the States may have any type of test, and indeed I do not know how we could keep persons in our insane asylums from demanding their right to vote, because, of course, they could say that the act provides that they do not have to be required to understand or have knowledge of anything whatsoever.

Mr. Chairman, in my judgment the permanent ban provision is of very dubious constitutionality, and I would vote against this bill, if my amendment does not succeed, for that reason alone. I believe it our duty to uphold the Constitution at all times.

The States still have the right—and the courts have said this repeatedly—to set voter qualifications except as limited by several amendments to the Constitution: The 15th amendment, which bans discrimination based upon race; the 19th amendment, which bans discrimination on the basis of sex; the 24th amendment, which prohibits any poll tax; and the 26th amendment, which prohibits age discrimination against persons 18 years of age or older.

These amendments themselves recognize that there reposes in the States the basic right to set voter qualifications. I can guarantee that if this is not amended, there will be an attack on the constitutionality of the act. The Voting Rights Act is supposed to be bottomed on the 15th amendment, and this ban, as I said a moment ago, could perhaps be deemed to be appropriate in the target States. Maybe one could argue it is appropriate in all other States for 5 years, and perhaps by some stretch of the imagination one could say that under the 15th amendment a ban for another 10 years is appropriate. But how could we possibly say that under the 15th amendment a permanent ban, a ban forever, is constitutional?

Mr. DRINAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, Congress clearly has the authority under Katzenbach against Morgan to ban literacy tests. In another case, Oregon against Mitchell, the Supreme Court upheld the existing nationwide ban in previous versions of this particular law.

The commonly stated purpose of literacy tests is to maintain an intelligent electorate, and Congress can clearly find that this purpose is not met through the use of literacy tests. As a matter of fact, there is a total absence of any evidence that the quality of government or of elected officials is higher in States with literacy tests than it is in others. Congress concludes now, as it did before, that a ban on literacy tests is a wise thing in order to give the rights under the 14th and 15th amendments to all Americans.

Mr. Chairman, literacy tests cannot achieve their stated purposes, because they do not assure the qualification of intelligent voters. I think that with electronic media widely available now, it is quite possible and indeed probable that many people with very little formal education to be extraordinarily well-informed and to be intelligent members of the electorate even though they are technically illiterate.

Mr. Justice Black in the Mitchell case noted the long history of the discriminatory effect of literacy tests on minorities.

For this and many other reasons, Mr. Chairman, I urge the defeat of the amendment.

Mr. TREEN. Mr. Chairman, will the gentleman yield for a question?

Mr. DRINAN. Yes, I will be glad to yield to the gentleman from Louisiana.

Mr. TREEN. The gentleman talks about literacy tests. I have tried to point out, in explaining my amendment, that the test or device that is banned forever is much broader than a literacy test. As I am sure the gentleman will agree, the act provides that a test or device includes the requirement that a person demonstrate the ability to read, write, understand, or interpret any matter or demonstrate any educational achievement or knowledge.

The gentleman has reference to the fact that the electronic media will inform persons and they do not have to be literate. That may be true, but this particular ban goes further than that. It would not permit a State to make any requirement for even the most fundamental knowledge of how the Govern-

ment works, as to what the Senate or the House of Representatives does, any basic type of requirement of that nature. It is much broader than a ban on a literacy test. It is a ban on knowledge or information of any kind whatsoever.

Mr. DRINAN. If the gentleman will yield, the existing language of the Voting Rights Act contains a very carefully chiseled definition of what the word "test" or "device" means. It means that we seek to ban any "test or device" which requires the ability to read, to write, or understand as a prerequisite to voting.

We are including in this particular bill all of those various tests and devices that have been used to defeat the rights of the American people under the 14th and 15th amendments.

Mr. TREEN. If the gentleman will yield, on page 71 of this report, there is reference to the literacy test, but the act itself is much broader than that. The test or device in the section that I seek to amend is defined in the act to include the clauses that I just read.

So that the gentleman is not talking about just the poor who may be illiterate here, and I agree with the gentleman fully for the idea of a literacy test, per se, is, I do not think, very practicable, but it goes much further than that, and talks about knowledge and understanding, and whatsoever, and no State would be able to require that forever.

Mr. DRINAN. What I quoted was from the preexisting Civil Rights and Voting Rights Act and, as a result, we are not changing, in any substantial or significant way, the previously accepted definition of the "tests or devices."

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by the gentleman from Louisiana (Mr. TREEN).

Mr. Chairman, I think we should recognize that the Civil Rights Act did not in fact grant any constitutional rights, or expand any existing constitutional rights which are and were and will continue to be available to all Americans. All it did do was to provide remedies, extraordinary remedies, and the extraordinary imposition of the Federal jurisdiction in some States and some political subdivisions in order to enforce the rights guaranteed under the Constitution.

The legislation was intended as a temporary measure, originally recommended by the Civil Rights Commission to extend for 10 years. The House decided it should only apply for 5 years. Then we extended it for an additional 5 years. Now we have before us the question of what further period shall we extend this temporary legislation for? The committee bill would extend the Voting Rights Act for a period of 10 years insofar as most of its sections are concerned. These extraordinary remedies are extended for a period of 10 years under the committee bill.

This criterion of tests and devices, consisting of literacy tests, which was devised back in the 1965 act, as the basis for permitting this extraordinary remedy contemplated that it would continue only on a temporary basis. The gentleman from Louisiana suggested that the constitutionality of this legislation was sustained by the Supreme Court on the basis of it being a part of the temporary law of our country, and not part of the permanent law.

To say that we are never going to have a literate society, to say we are never going to require people to read and write in order to vote in any election, seems to me to be quite inconsistent with the principles of a literate society. It is all well and good to say that we have television and radio now, and you do not have to know how to read and write, but I think that is an admission that we should not want to make. We should make as our goal to extend our literate society. If we need more education, including adult education, then we should provide that by legislation, provide such a program, but to admit that we will never provide the opportunities for illiterates to become literate in our States is an admission this Congress should not make, and a permanent ban on literacy tests certainly should not be made a part of our permanent law.

So I urgently urge the support of the amendment offered by the gentleman from Louisiana (Mr. TREEN).

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. TREEN).

The question was taken; and the Chair announced that the noes appeared to have it.

RECORDED VOTE

Mr. TREEN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 89, noes 318, not voting 26, as follows:

[Roll No. 253]

AYES—89

Ambro	English	Michel
Archer	Flynt	Montgomery
Armstrong	Ginn	Moore
Ashbrook	Goodling	Nichols
Bauman	Hagedorn	Passman
Bevill	Haley	Poage
Biaggi	Hansen	Quillen
Breaux	Hébert	Rhodes
Brinkley	Hefner	Robinson
Broomfield	Henderson	Rousselot
Broyhill	Hinshaw	Satterfield
Burke, Fla.	Holt	Shuster
Burleson, Tex.	Hutchinson	Snyder
Butler	Hyde	Spence
Byron	Ichord	Steed
Chappell	Jarman	Steiger, Ariz.
Clancy	Johnson, Colo.	Stephens
Clawson, Del	Jones, Okla.	Symms
Cochran	Ketchum	Taylor, Mo.
Collins, Tex.	Kindness	Taylor, N.C.
Conlan	Landrum	Treen
Crane	Lent	Waggonner
Daniel, Dan	Lott	Wampler
Daniel, R. W.	Lujan	Whitehurst
Delaney	McClory	Whitten
Devine	McDonald	Wydler
Dickinson	McEwen	Young, Alaska
Downing	Mann	Young, Fla.
Duncan, Oreg.	Martin	Zeferetti
Edwards, Ala.	Mathis	

NOES—318

Abdnor	Aspin	Biester
Abzug	AuCoin	Bingham
Adams	Badillo	Blanchard
Addabbo	Bafalis	Blouin
Anderson, Calif.	Baldus	Boggs
	Barrett	Boland
Anderson, Ill.	Baucus	Bolling
Andrews, N.C.	Beard, R.I.	Bonker
Andrews, N. Dak.	Bedell	Brademas
	Bell	Breckinridge
Annunzio	Bennett	Brodhead
Ashley	Bergland	Brooks
Brown, Mich.	Helstoski	Pettis
Brown, Ohio	Hicks	Peyser
Buchanan	Hightower	Pickle
Burgener	Hillis	Pike
Burke, Calif.	Holland	Pressler
Burke, Mass.	Holtzman	Preyer
Burlison, Mo.	Horton	Price
Burton, John	Howard	Pritchard
Burton, Phillip	Howe	Quie
Carney	Hubbard	Randall
Carr	Hughes	Rangel
Carter	Hungate	Rees
Casey	Jeffords	Regula
Cederberg	Jenrette	Reuss
Chisholm	Johnson, Calif.	Richmond
Clausen, Don H.	Johnson, Pa.	Riegle
	Jordan	Rinaldo
Clay	Karth	Risenhoover
Cleveland	Kasten	Rodino
Cohen	Kastenmeier	Roe
Collins, Ill.	Kazen	Rogers
Conable	Kelly	Roncalio
Conte	Keys	Rooney
Conyers	Koch	Rose
Corman	Krebs	Rosenthal
Cornell	Krueger	Roush
Cotter	LaFalce	Roybal
Coughlin	Lagomarsino	Runnels
D'Amours	Latta	Ruppe
Daniels, N.J.	Leggett	Russo
Danielson	Lehman	Ryan
Davis	Levitas	St Germain
de la Garza	Litton	Santini
Dellums	Lloyd, Calif.	Sarasin
Dent	Lloyd, Tenn.	Sarbanes
Derrick	Long, La.	Scheuer
Derwinski	Long, Md.	Schneebeli
Diggs	McCloskey	Schroeder
Dingell	McCollister	Schulze
Dodd	McCormack	Sebelius
Downey	McFall	Sharp
Drinan	McHugh	Shipley
Duncan, Tenn.	McKay	Shriver
Early	McKinney	Sikes
Eckhardt	Macdonald	Simon
Edgar	Madden	Sisk
Edwards, Calif.	Maguire	Skubitz
Emery	Mahon	Slack
Erlenborn	Matsunaga	Smith, Iowa
Esch	Mazzoli	Smith, Nebr.
Eshleman	Meeds	Solarz
Evans, Colo.	Melcher	Spellman
Evans, Ind.	Metcalfe	Staggers
Evins, Tenn.	Meyner	Stanton, J. William
Fascell	Mezvinsky	
Fenwick	Mikva	Stanton, James V.
Fish	Milford	
Fisher	Miller, Calif.	Stark
Fithian	Miller, Ohio	Steelman
Flood	Mills	Steiger, Wis.
Florio	Mineta	Stokes
Flowers	Minish	Stratton
Foley	Mitchell, Md.	Studds
Ford, Mich.	Mitchell, N.Y.	Symington
Ford, Tenn.	Moakley	Talcott
Forsythe	Moffett	Thompson
Fountain	Moorhead, Calif.	Thone
Fraser		Thornton
Frenzel	Moorhead, Pa.	Traxler
Frey	Morgan	Tsongas
Fulton	Mosher	Udall
Fuqua	Moss	Ullman
Gaydos	Mottl	Van Deerlin
Giaimo	Murphy, Ill.	Vander Jagt
Gibbons	Murphy, N.Y.	Vander Veen
Gilman	Murtha	Vanik
Goldwater	Myers, Ind.	Vigorito
Gonzalez	Myers, Pa.	Walsh
Gradison	Natcher	Waxman
Grassley	Neal	Weaver
Green	Nedzi	Whalen
Gude	Nix	White
Guyer	Nolan	Wiggins
Hall	Nowak	Wilson, Bob
Hamilton	Oberstar	Wilson, C. H.
Hanley	Obey	Winn
Hannaford	O'Brien	Wirth
Harkin	O'Hara	Wolff
Harrington	O'Neill	Wright
Harris	Ottinger	Wylie
Harsha	Patman, Tex.	Yates
Hastings	Patten, N.J.	Yatron
Hawkins	Patterson, Calif.	Young, Ga.
Hayes, Ind.		Young, Tex.
Hechler, W. Va.	Pattison, N.Y.	Zablocki
Heckler, Mass.	Pepper	
Heinz	Perkins	

NOT VOTING—26

Alexander	Findley	Jones, N.C.
Beard, Tenn.	Hammer-schmidt	Jones, Tenn.
Bowen		Kemp
Brown, Calif.	Hays, Ohio	McDade
du Pont	Jacobs	Madigan
Eilberg	Jones, Ala.	Mink

Mollohan	Rostenkowski	Sullivan
Railsback	Seiberling	Teague
Roberts	Stuckey	Wilson, Tex.

So the amendment was rejected.

The Clerk announced the following pairs:

Mr. Roberts for, with Mrs. Sullivan against.
Mr. Stuckey for, with Mr. Eilberg against.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to title I? If not, the Clerk will read.

The Clerk read as follows:

TITLE II

SEC. 201. Section 4(a) of the Voting Rights Act of 1965 is amended by—

(1) inserting immediately after "determinations have been made under" the following: "the first two sentences of";

(2) adding at the end of the first paragraph thereof the following new sentence: "No citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device in any State with respect to which the determinations have been made under the third sentence of subsection (b) of this section or in any political subdivision with respect to which such determinations have been made as a separate unit, unless the United States District Court for the District of Columbia in an action for a declaratory judgment brought by such State or subdivision against the United States has determined that no such test or device has been used during the ten years preceding the filing of the action for the purpose or with the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2): Provided, That no such declaratory judgment shall issue with respect to any plaintiff for a period of ten years after the entry of a final judgment of any court of the United States, other than the denial of a declaratory judgment under this section, whether entered prior to or after the enactment of this paragraph, determining that denials or abridgements of the right to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2) through the use of tests or devices have occurred anywhere in the territory of such plaintiff.";

(3) striking out "the action" in the third paragraph thereof, and by inserting in lieu thereof "an action under the first sentence of this subsection"; and

(4) inserting immediately after the third paragraph thereof the following new paragraph:

"If the Attorney General determines that he has no reason to believe that any such test or device has been used during the ten years preceding the filing of an action under the second sentence of this subsection for the purpose or with the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2), he shall consent to the entry of such judgment.".

SEC. 202. Section 4(b) of the Voting Rights Act of 1965 is amended by adding at the end of the first paragraph thereof the following: "On and after August 6, 1975, in addition to any State or political subdivision of a State determined to be subject to subsection (a) pursuant to the previous two sentences, the provisions of subsection (a) shall apply in any State or any political subdivision of a State which (i) the Attorney General determines maintained on November 1, 1972, any test or device, and with respect to which (ii) the Director of the Census determines that less than 50 per centum of the persons of voting age were registered on November 1, 1972, or that less than 50 per centum of such persons voted in the Presidential election of November 1972.".

SEC. 203. Section 4 of the Voting Rights Act of 1965 is amended by adding the following new subsection:

"(f)(1) The Congress finds that voting discrimination against citizens of language minorities is pervasive and national in scope. Such minority citizens are from environments in which the dominant language is other than English. In addition they have been denied equal educational opportunities by State and local government, resulting in severe disabilities and continuing illiteracy in the English language. The Congress further finds that, where State and local officials conduct elections only in English, language minority citizens are excluded from participating in the electorial process. In many areas of the country, this exclusion is aggravated by acts of physical, economic, and political intimidation. The Congress declares that, in order to enforce the guarantees of the fourteenth and fifteenth amendments to the United States Constitution, it is necessary to eliminate such discrimination by prohibiting English-only elections, and by prescribing other remedial devices.

"(2) No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote because he is a member of a language minority group.

"(3) In addition to the meaning given the term under section 4(c), the term 'test or device' shall also mean any practice or requirement by which any State or political subdivision provided any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, only in the English language, where the Director of the Census determines that more than five per centum of the citizens of voting age residing in such State or political subdivision are members of a single language minority. With respect to section 4(b), the term 'test or device', as defined in this subsection, shall be employed only in making the determinations under the third sentence of that subsection.

"(4) Whenever any State or political subdivision subject to the prohibitions of the second sentence of section 4(a) provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable language minority group as well as in the English language.".

SEC. 204. Section 5 of the Voting Rights Act of 1965 is amended by inserting after "November 1, 1968," the following: "or whenever a State or political subdivision with respect to which the prohibitions set forth in section 4(a) based upon determinations made under the third sentence of section 4(b) are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1972,".

SEC. 205. Sections 3 and 6 of the Voting Rights Act of 1965 are each amended by striking out "fifteenth amendment" each time it appears and inserting in lieu thereof "fourteenth or fifteenth amendment".

SEC. 206. Sections 2, 3, the second paragraph of section 4(a), and sections 4(d), 5, 6, and 13 of the Voting Rights Act of 1965 are each amended by adding immediately after "on account of race or color" each time it appears the following: ", or in contravention of the guarantees set forth in section 4(f)(2)".

SEC. 207. Section 14(c) is amended by adding at the end the following new paragraph:

"(3) The term 'language minorities' or 'language minority group' means persons who are American Indian, Asian American, Alaskan Natives or of Spanish heritage.".

SEC. 208. If any amendments made by this Act or the application of any provision thereof to any person or circumstance is judicially determined to be invalid, the remainder of the Voting Rights Act of 1965, or the application of such provision to other persons or circumstances shall not be affected by such determination.

Mr. McCLORY (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDMENT OFFERED BY MR. M'CLORY

Mr. McCLORY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLORY: Page 2, beginning with line 7, strike out all down through line 15 on page 7, and insert in lieu thereof the following:

SEC. 103. Sections 3 and 6 of the Voting Rights Act of 1965 are each amended by striking out "fifteenth amendment" each time it appears and inserting in lieu thereof "fourteenth or fifteenth amendment".

SEC. 104. Section 3 of the Voting Rights Act of 1965 is amended by inserting immediately after "on account of race or color" each time it appears the following: "or national origin".

And redesignate titles III and IV as II and III, respectively; redesignate sections 301 through 304 as 201 through 204, respectively, and redesignate sections 401 through 408 as 301 through 308, respectively.

Mr. McCLORY. Mr. Chairman, this amendment, it seems to me, really gets at the crux of what we are considering here in connection with the proposed extension of the Voting Rights Act. I want to state quite firmly and flatly that I am a sponsor of the extension of the Voting Rights Act. I am sponsoring the administration's extension of the Voting Rights Act for a period of 5 years, including a ban on literacy tests for a period of 5 years; in other words, to give 5 years additional effect to the existing Voting Rights Act which, as many have said, has contributed substantially to assuring voting rights to American citizens.

What this amendment does is to strike title II from the bill. Title II would establish a new test or device. The new test or device would do precisely this, and I ask the Members to listen to this: The new test or device would be that if a State or a political subdivision in the election of 1972 used a ballot which was printed only in English, and it had 5 percent or more of a so-called language minority group—Spanish heritage, Asian American, American Indian, or Native Alaskan—and less than 50 percent of the persons voted in the election in that area, then they would automatically come under the Voting Rights Act of 1965. There would be an automatic trigger, just as there was an automatic trigger in 1965 when we originally enacted this legislation.

In other words, we are expanding the Voting Rights Act by employing the same

type of device, the same means, the same extraordinary remedy, but we are doing it without the justification we had for the original act. I want to emphasize that.

It is true that in the record, in the evidence, if we look at these volumes of evidence that were taken, that there is some evidence in the form of some statements of some persons that in the State of Texas there were discriminatory practices there with regard to some Mexican Americans, but that is not general. That is not general, and it does not compare in any way to the discriminatory practices which were in effect and which we considered in 1965 when we enacted this original Voting Rights Act.

I suggest that with reference, for instance, to the subject of Asian Americans, there is only one single line in one letter which is addressed to the chairman of the committee. There is no evidence of any discrimination with respect to Asian Americans. There is no evidence of discrimination with respect to Alaskan Natives. There is no evidence of discrimination with respect to American Indians.

It is true that American Indians do not vote in large measure, but there is no practice of depriving them of the right to vote. If this title II remains in the bill, then every State that had this English-only election in which they have had not only the ballots but all the voting information only in the English language, then they would be subject to this triggering device and be compelled to come to the Attorney General and have approval of all of its legislation affecting elections, balloting, voting, and all the rest.

As a result, whether or not this is what we want to undertake with regard to voting rights for Americans, it seems to me that this is a far departure. It is not based upon any evidence; it is not based upon the realities; it is not based upon the principle which was applied at the time we enacted the Voting Rights Act of 1965 and which we are undertaking now to extend.

I earnestly urge the Members to support the amendment to strike title II. If we do that, and then follow further by striking title III, it seems to me then that we can go on to extend the Voting Rights Act for the purpose for which it was intended. Let me say that 14 States, in whole or in part, are covered by title II and 27 States under title III.

Not only would the ballots and voting information have to be in these additional languages, but let me point this out also: Not all the American Indian languages are in written form, and there are multiple American Indian languages. There are multiple Aleut and Eskimo languages not in written form. So, first of all, we would have to reduce these to written form. This legislation really gets to be absurd and ridiculous if we consider what title II attempts to do.

Mr. DRINAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I would like to ask the distinguished gentleman from Illinois, if I may, how he reacts to this: that the Department of Justice, in a memorandum of April 8, 1975, stated that there is evidence that American Indians do suffer from extensive infringement of their voting rights. The Justice Department stated that they had found it necessary to engage in litigation in order to protect the voting rights of American Indians. The Department of Justice stated that it has been involved in 33 cases involving discrimination against American Indians since 1970.

That is the basic purpose of title II; namely, to give the machinery to the Department of Justice and to the Federal courts to reach this discrimination that obviously goes on against the American Indians.

Mr. McCLORY. Mr. Chairman, if the gentleman will yield, let me answer by saying that title I already is effective to apply to these parties. The title applies to American Indians and all Americans, all citizens entitled to vote, who are discriminated against because of their race, and we should provide that kind of protection. The Constitution provides that.

But to blanket in all of these States under a formula because there is a certain population of American Indians in a State is completely inconsistent with the original purpose of the Voting Rights Act, which, of course, took care of a practice which had gone on for a century. But we do not have that situation with regard to Indians or Asian Americans.

To print the ballot in Chinese, for instance, in San Francisco, does not make any sense at all. My daughter-in-law, who is Chinese, lives out there in the San Francisco area. She does not want to have the ballots printed in Chinese. But yet she would be counted as an Asian-American.

Mr. DRINAN. But the facts do state overwhelmingly in all of the evidence to which the gentleman has made reference that Asian-Americans and American Indians and Alaskans vote very, very disproportionately compared to their total number, and they vote very substantially less than the Anglos, or the whites, and the presumption is in the Voting Rights Act of 1965 and 1970 that when that type of evidence is there, there is overt discrimination of all kinds and that, therefore, the law is designed to reach the hidden individual sources that are preventing these people from going out to vote.

Mr. McCLORY. If the gentleman will yield, I do not think we should base our judgments on presumption. I think we should base our judgments on fact. The facts do not seem to be there. There are some cases where the Spanish-heritage people vote consistently in large blocs, and vote and elect; and they happen to do that in my district. But I certainly do not think, for instance, in the State of Florida, where the Cubans have arrived recently as refugees and now are citizens, that we should now enact a Voting Rights Act which would require the printing of ballots in the Spanish language in order to take care of these refugees who have now become citizens. It just does not make sense.

Mr. DRINAN. Ten years ago the dramatic demonstration at Selma brought to this Congress and to this country very significant facts indicating that blacks had not been allowed to vote. But if Selma and all of those incidents had not occurred, the statistics would have demonstrated that blacks had been discriminated against. I suggest to the gentleman that the statistics with regard to Asian Americans, native Americans, and Native Alaskans, demonstrate precisely the same thing, and we, therefore, draw the presumption that the protection of the law is needed. And that is what title II and title III is all about.

Mr. McCLORY. If the gentleman will yield, it is true about the situation in Selma; we did have statistics; but we had additional facts of actual intimidation there. I supported the Voting Rights Act then, and I supported the voting rights extension, and I support it now. But we do not have those facts before the House today.

Mr. DRINAN. Those facts are set forth in the 1,300 pages of testimony of the hearings which are available.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. McCLORY).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. McCLORY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 104, noes 305, not voting 24, as follows:

[Roll No. 254]

AYES—104

Archer	Gibbons	Moorhead, Calif.
Armstrong	Ginn	Myers, Ind.
Ashbrook	Haley	Nichols
Bafalis	Hansen	Passman
Bauman	Harsha	Pettis
Bevill	Hastings	Poage
Brinkley	Hefner	Quillen
Brown, Ohio	Henderson	Randall
Broyhill	Hinshaw	Risenhoover
Burleson, Tex.	Holt	Robinson
Butler	Hutchinson	Ruppe
Byron	Hyde	Santini
Casey	Ichord	Satterfield
Cederberg	Jarman	Shuster
Chappell	Johnson, Colo.	Sikes
Clancy	Jones, Okla.	Snyder
Clawson, Del	Kasten	Steed
Collins, Tex.	Kelly	Steiger, Ariz.
Conable	Kemp	Steiger, Wis.
Conlan	Ketchum	Stephens
Crane	Kindness	Symms
Daniel, Dan	Landrum	Talcott
Daniel, R. W.	Latta	Taylor, Mo.
Dent	Leggett	Taylor, N.C.
Devine	Lehman	Treen
Duncan, Tenn.	Lott	Van Deerlin
Edwards, Ala.	McClory	Waggonner
English	McDonald	Wampler
Erlenborn	McEwen	Whitehurst
Eshleman	Martin	Whitten
Fish	Mathis	Wiggins
Flynt	Michel	Wydler
Forsythe	Miller, Ohio	Young, Alaska
Fountain	Montgomery	Young, Fla.
Frey	Moore	

NOES—305

Abdnor	Annunzio	Bennett
Abzug	Ashley	Bergland
Adams	Aspin	Biaggi
Addabbo	AuCoin	Biester
Ambro	Badillo	Bingham
Anderson, Calif.	Baldus	Blanchard
Anderson, Ill.	Barrett	Blouin
Andrews, N.C.	Baucus	Boggs
Andrews, N. Dak.	Beard, R.I.	Boland
	Bedell	Bolling
	Bell	Bonker

Brademas
Breaux
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Mich.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Carter
Chisholm
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Dickinson
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Esch
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fascell
Fenwick
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fraser
Frenzel
Fuqua
Gaydos
Giaimo
Gilman
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks
Hightower
Hillis
Holland
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jordan
Karth
Kastenmeier
Kazen
Keys
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
McCloskey
McCollister
McCormack
McDade
McFall
McHugh
McKay
McKinney
Macdonald
Madden
Madigan
Maguire
Mahon
Mann
Matsunaga
Mazzoli
Meeds
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Roush
Rousselot
Roybal
Runnels
Russo
Ryan
St Germain
Sarasin
Sarbanes
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steelman
Stokes
Stratton
Studds
Symington
Thompson
Thone
Thornton
Traxler
Tsongas
Udall
Vander Jagt
Vander Veen
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
White
Wilson, Bob
Wilson, C. H.
Winn
Wirth
Wolff
Wright
Wylie
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—24

Alexander
Beard, Tenn.
Bowen
Brown, Calif.
Downing
du Pont
Findley
Fulton
Hammer-schmidt
Hays, Ohio
Hébert
Jones, N.C.
Jones, Tenn.
Melcher
Mollohan
Railsback
Roberts
Roncalio
Rostenkowski
Stuckey
Sullivan
Teague
Ullman
Wilson, Tex.

So the amendment was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mrs. Sullivan against.

Mr. Roberts for, with Mr. Hays of Ohio against.

Mr. Stuckey for, with Mr. Rostenkowski against.

The result of the vote was announced as above recorded.

Mr. EDWARDS of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. LONG of Louisiana. Mr. Chairman, will the gentleman yield?

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

(By unanimous consent, Mr. LONG of Louisiana was allowed to speak out of order.)

ANNOUNCEMENT OF GRANTING OF RULE ON H.R. 6860

Mr. LONG of Louisiana. I thank the gentleman for yielding.

Mr. Chairman, I have an announcement that might be of interest to the members of the committee.

The Committee on Rules has granted a rule to H.R. 6860, which permits germane amendments to the bill only if they have been printed in the CONGRESSIONAL RECORD before or on June 4. This means that all germane amendments must be printed in either tomorrow's RECORD or a previous edition of the RECORD to be eligible to be offered to the bill.

For the Members' information, H.R. 6860 is described as the Committee on Ways and Means energy bill.

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

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

Mr. GIBBONS. I thank the gentleman for yielding.

When the gentleman from Louisiana says it must be in the June 4 RECORD, does that mean that the amendment has got to be on the table up there before the RECORD closes tonight?

Mr. LONG of Louisiana. Before the RECORD closes tomorrow night.

Mr. GIBBONS. Before the RECORD closes tomorrow night?

Mr. LONG of Louisiana. Today, I believe, is June 3.

Mr. GIBBONS. So what the gentleman means is the RECORD that closes tomorrow night?

Mr. LONG of Louisiana. The RECORD that closes at the close of business tomorrow needs to have all the amendments if they are going to be considered.

Mr. GIBBONS. I thank the gentleman.

AMENDMENT OFFERED BY MR. M'CLORY

Mr. McCLORY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLORY: Strike out "Alaskan Natives" where it appears on page 7, line 9, and on page 9, line 22, and strike out the comma following it on page 9, line 22.

Mr. McCLORY. Mr. Chairman, I ask unanimous consent that this amendment may be considered at this time. It would strike the words "Alaskan Natives" from title II and from title III.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. McCLORY. Mr. Chairman, I offered this amendment in the committee, and I am offering it again now to strike the term "Alaskan Natives" from the language minority groups that are referred to and included in this legislation. I am not fully familiar with this, but the information I have is that the Alaskan Natives, for the most part, do not have any written language, and the only common language they have is English. This requires that the State of Alaska be blanketed into this bill, which they are, and subjects them automatically to the legislation. Since they did not have their election ballots in the Eskimo and Aleut languages in 1972, it seems to be quite inconsistent with what this Congress should be doing.

I am hopeful that we can eliminate this description. The common language of the Alaskan Native is English. They do have 50 or so dialects which are for the most part not in written form. At the University of Alaska some people are working on reducing these to written form.

From my information both the political leaders and governmental leaders and others in Alaska support striking this expression "Alaskan Natives."

Mr. Chairman, I yield at this time to my colleague, the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Chairman, I thank the gentleman from Illinois and I would like to use my own time later if the gentleman will grant me some time.

Mr. Chairman, we have heard some statements here that there has been discrimination against the Alaskan Natives and I say to you that is not true. Regardless of what the Commission may have written, I have a letter from the man who instigated including this in the bill, J. Stanley Pottinger who writes:

The reason for using a phrase which would embrace within its meaning Alaskan Natives is that we think that legislation of this nature should not single out individual racial groups when there are several racial groups which may be similarly situated. This is not to say that any evidence has been presented to us of a need for expansion of the coverage of the Act to Alaskan Natives; we have received no specific evidence regarding them. However we think it would be more appropriate to leave to the courts the determination as to which racial minorities who are non-English speaking need the special protections of the Act. The State of Alaska has been able to bail out from the special provisions of the Act on two prior occasions, and if there is no discrimination against Alaskan Natives presumably could bail out if Congress were to include it within the coverage of the 1975 Voting Rights Amendment.

I have heard testimony that our Senator supports inclusion of this in the act, and I have received word from our Senator, Senator GRAVEL who writes:

Accordingly, the enclosed Amendment would exempt Alaska from the bilingual ballots requirement, recognizing that Alaska has a voter assistance statute in its laws.

I have received telegrams from leading Alaskan Natives who said they did

not want to be included under this act because it would cause confusion.

The languages are not written. The only people who know the languages are the professors at the university and some natives. The universal language is English. There is no difficulty about voting in Alaska. If you are warm, you can vote in Alaska. It has been proven that participation in Alaska as far as voting is 50 percent of the Natives who vote in Alaska. I ought to know because I had an Alaskan Native running against me.

Listen to what the people are saying, not what the committee is saying, because the people are speaking and I am speaking for the people. I urge the adoption of this amendment as introduced by my colleague, the gentleman from Illinois.

Mr. EDWARDS of California. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman from Illinois and the gentleman from Alaska have made a very flimsy case. The gentleman from Alaska (Mr. YOUNG) is opposed to this provision of the bill. There is no doubt about that, but he is 100 percent wrong if he thinks the Senator from Alaska, Senator GRAVEL is against the bill. I have a letter from him today that I have circulated that says explicitly and emphatically that he favors the bill and the extension of the Voting Rights Act.

I will explain in due time.

The gentleman from Alaska (Mr. YOUNG) and the gentleman from Illinois (Mr. MCCLORY), but generally speaking the gentleman from Alaska (Mr. YOUNG) confuse title II and title III. The coverage of Alaska is much broader than title III on merely bilingual elections. It is covered by title II also.

I might point out that the letters in the report that are put in the report as evidence of nonsupport in Alaska are nothing of the sort.

They are in opposition to title III of the bill in that Alaska should not be required to have bilingual elections and the bill does not require Alaska to have bilingual elections. The native languages are virtually all nonwritten in Alaska. All this bill requires, as has been pointed out over and over again, is bilingual assistance to Alaskan Natives. I might add, it would be a relatively simple process because the languages of Alaska are similar and they require only one interpreter.

Mr. YOUNG of Alaska. Mr. Chairman, if the gentleman will yield, under the Alaska State legislature we offer that assistance now; but if the gentleman can explain why there is no triggering mechanism in the State of Alaska where it would be required to train the Alaskans when the language is not written—can the gentleman state whether that is one of the requirements or not?

Mr. EDWARDS of California. There is no way to have a written bilingual ballot for a language that is oral.

Mr. YOUNG of Alaska. It is oral, and let me say, if it is a congressional act and becomes law, in a sense it will be written and it actually has been written bilingually.

Is the gentleman telling me it would have to be written and bilingual?

Mr. EDWARDS of California. I suggest that the gentleman read page 41 of the report:

> For those languages which have no written form, registration and voting assistance in the language of the applicable minority group will serve to comply with the section.

This is the situation in Alaska.

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

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

Mr. MCCLORY. I want to point out that section 4 of title II says that the election material, including ballots, shall be provided in the language of the minority group as well as the English language.

The gentleman made reference to the ballot. The ballot has to be in the language of the minority group and the language is the language of the Alaskan native.

Mr. EDWARDS of California. The report makes it clear that in Alaska the languages of the minorities are oral and not written. So how are we going to write something that is an oral language in the ballot?

Mr. MCCLORY. That is overdoing it. We are mandating an impossible act. We are mandating a written language when there is no written language.

Mr. EDWARDS of California. I suggest the gentleman read the report. The trigger does require the inclusion of Alaska in title II and title III and it is a prima facie case by virtue of it being triggered by voting discrimination in Alaska.

We have the enthusiastic support of the senior Senator from Alaska. We have the support of the Alaska Federation of Natives, at least the president, Roger Lang, who wrote one of the letters in the report. I know what the letter says, but that only refers to title III again.

We are getting into the same box we were in with the fact of the oral language.

We have also heard from the president of the Association of Interior Eskimos, John L. Heffle, a telegram from him that I will put into the RECORD when we go back into the House.

If the State of Alaska feels it is unfairly covered it can bail out by seeking a declaratory judgment.

Again, the report is wrong. On page 93 it says that representatives of Alaska twice traveled to Washington to bail out. Alaska was covered twice before. It did not go to Washington. It was done by mail. It is a very simple process, as I am sure the Attorney General of Alaska can inform the gentleman.

Mr. MCCLORY. Mr. Chairman, if the gentleman will yield further, I would like to suggest that under this new legislation there will be no opportunity to bail out, because there will be no way of showing that they did conduct their election in 1972 in any of the Alaskan languages and there will be no way to show that it occurred only in a few instances, because it occurred all over the country, because they did not have any Alaskan ballot anywhere in the country. That is one of the requisites for bailing out.

Mr. EDWARDS of California. Mr. Chairman, I am going to read the telegram from John L. Heffle, Sr., president of the Association of Interior Eskimos, which was received today. The telegram is as follows:

> FAIRBANKS, ALASKA,
> *May 30, 1975.*
>
> Congressman DON EDWARDS,
> *House of Representatives,*
> *Washington, D.C.*
>
> DEAR CONGRESSMAN EDWARDS: This is in full support of H.R. 6219 and the bilingual voting assistance this would extremely beneficial to our Alaskan Natives as our people have in the past experienced difficulty understanding municipal corporation, State, and Federal voting procedures.
>
> Respectfully,
>
> JOHN L. HEFFLE, Sr.,
> *President,*
> *Association of Interior Eskimos.*

Mr. YOUNG of Alaska. Mr. Chairman, may I ask, what is that name?

Mr. EDWARDS of California. John L. Heffle, president, Association of Interior Eskimos.

Mr. YOUNG of Alaska. May I also counteract that with a letter from the gentleman who represents the other areas in the State of Alaska with a total of 60,000 people? One can get a telegram from anybody, but these people are duly elected officials of the State of Alaska under the native representation.

Mr. DRINAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think we ought to know that we are speaking about thousands of people when we speak of the Alaskan Natives. They comprise over 20 percent of the entire population of Alaska. This State of Alaska has consistently had under 50 percent voting in the last three Presidential elections.

The Department of Justice wants the Native Alaskans included. The U.S. Commission on Civil Rights in a letter dated April 29, 1975, wants the special coverage extended to Alaskan Natives.

I want to say to the gentleman from Illinois and also to the gentleman from Alaska that I would be prepared at a later time to suggest an amendment that would ease their understandable anxiety. The amendment at the appropriate place in the bill would read:

> Provided, that where the language of an applicable minority group is oral or unwritten, the state or political subdivision shall only be required to furnish oral instructions, assistance or other information relating to registration and voting.

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

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

Mr. MCCLORY. Mr. Chairman, I think that in the existing Alaskan law, there is already authority for voter assistance. Also, I might point out that they had a constitutional amendment recently in Alaska to provide that citizens did not have to understand the English language in order to be entitled to vote, and the people overwhelmingly supported that constitutional amendment.

It seems to me that to include Alaskan Natives under these circumstances is really quite unfair to a large body of American citizens who apparently do not want to have this superimposed Federal authority on them.

Mr. DRINAN. May I respond to the gentleman? Consistent with everything else in the act, we simply extend the coverage of the 14th and 15th amendments to these people.

Mr. YOUNG of Alaska. Mr. Chairman, if the gentleman will yield further, the Senator I was speaking of previously was not the senior Senator; he was the junior Senator. I want to make that clear for the record.

First and foremost, if the Justice Department wants it—I am not exactly sure why they want it, because Mr. Pottinger states that there has been no evidence at any time that would back up the requirements and the necessity to be included in this act. What he says is this, that the State has been bailed out twice and they can bail out again, and undoubtedly will do it and will probably win the case. The gentleman says it costs 10 cents; I say it will cost $100,000.

To me, it is not right. The Native people of Alaska, with whom I am intimately familiar, do not favor it. As I stated yesterday, we are doing something to the people when they do not want it, but this is wrong.

I voted to support this act, but not this provision.

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

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

Mr. BUTLER. Mr. Chairman, the gentleman from Massachusetts will agree, will he not, that at no time during our 13 days of hearings in the subcommittee was the subject of Alaskan Natives and the inclusion of them under the act considered in the hearings. Will the gentleman agree to that?

Mr. DRINAN. We had evidence in the U.S. Commission report and other testimony; not oral evidence, but we have had, it seems to me, sufficient evidence to state that there has been a serious problem with Alaskan Natives not voting according to their proportion in the population.

Mr. BUTLER. Could the gentleman point that out? I have searched the record and I find no page where this is mentioned in the hearings. Maybe this is that kind of unwritten language that we are talking about with the Alaskan Native languages, but it is not in this record.

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

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

Mr. McCLORY. Mr. Chairman, we cannot here, by legislation, extend the 14th and 15th amendments. That is already extended to all Americans, and we cannot make any change in the Constitution here in this legislation.

We cannot make any change in the Constitution here to this legislation. The 14th and 15th amendments blanket in all American citizens, and what we are doing here, it seems to me, is imposing the Federal will in an area that does not want it imposed upon them, and it imposes the impossible.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. McCLORY).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. YOUNG of Alaska. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 145, noes 264, not voting 24, as follows:

[Roll No. 255]

AYES—145

Abdnor	Goldwater	Myers, Ind.
Archer	Gonzalez	Nichols
Armstrong	Goodling	O'Brien
Ashbrook	Gradison	Pettis
Bafalis	Grassley	Pike
Bauman	Hagedorn	Poage
Bevill	Haley	Pritchard
Brinkley	Hansen	Quie
Broomfield	Harsha	Quillen
Brown, Ohio	Hastings	Randall
Broyhill	Hébert	Rhodes
Burgener	Heckler, Mass.	Rinaldo
Burke, Fla.	Hillis	Risenhoover
Burleson, Tex.	Hinshaw	Robinson
Butler	Holt	Rogers
Byron	Hutchinson	Rousselot
Carter	Hyde	Ruppe
Casey	Ichord	Schneebeli
Cederberg	Jarman	Schulze
Chappell	Jeffords	Sebelius
Clancy	Johnson, Colo.	Seiberling
Clausen, Don H.	Johnson, Pa.	Shuster
	Kasten	Sikes
Clawson, Del	Kelly	Simon
Cochran	Kemp	Skubitz
Collins, Tex.	Ketchum	Smith, Nebr.
Conable	Kindness	Snyder
Conlan	Lagomarsino	Spence
Crane	Landrum	Stanton, J. William
Daniel, Dan	Latta	
Daniel, R. W.	Leggett	Steiger, Ariz.
Dent	Lent	Steiger, Wis.
Derwinski	Lott	Stephens
Dickinson	Lujan	Symms
Downing	McClory	Talcott
Duncan, Oreg.	McCollister	Taylor, Mo.
Duncan, Tenn.	McDade	Taylor, N.C.
Edwards, Ala.	McDonald	Treen
English	McEwen	Vander Jagt
Erlenborn	Martin	Walsh
Eshleman	Mathis	Wampler
Evins, Tenn.	Meeds	Whitehurst
Fenwick	Michel	Wiggins
Fish	Miller, Ohio	Wilson, Bob
Flynt	Mitchell, N.Y.	Winn
Forsythe	Montgomery	Wydler
Frenzel	Moore	Young, Alaska
Frey	Moorhead, Calif.	Young, Fla.
Gilman		
Ginn	Murtha	

NOES—264

Abzug	Blouin	Corman
Adams	Boggs	Cornell
Addabbo	Boland	Cotter
Ambro	Bolling	D'Amours
Anderson, Calif.	Bonker	Daniels, N.J.
	Brademas	Danielson
Anderson, Ill.	Breaux	Davis
Andrews, N.C.	Breckinridge	de la Garza
Andrews, N. Dak.	Brodhead	Delaney
	Brooks	Dellums
Annunzio	Brown, Calif.	Derrick
Ashley	Brown, Mich.	Devine
Aspin	Buchanan	Diggs
AuCoin	Burke, Calif.	Dingell
Badillo	Burke, Mass.	Dodd
Baldus	Burlison, Mo.	Downey
Barrett	Burton, John	Drinan
Baucus	Burton, Phillip	Early
Beard, R.I.	Carney	Eckhardt
Bedell	Carr	Edgar
Bell	Chisholm	Edwards, Calif.
Bennett	Clay	Eilberg
Bergland	Cleveland	Emery
Biaggi	Cohen	Esch
Biester	Collins, Ill.	Evans, Colo.
Bingham	Conte	Evans, Ind.
Blanchard	Conyers	Fascell
Fisher	McCormack	Roe
Fithian	McFall	Roncalio
Flood	McHugh	Rooney
Florio	McKay	Rose
Flowers	Macdonald	Rosenthal
Foley	Madden	Roush
Ford, Mich.	Maguire	Roybal
Ford, Tenn.	Mahon	Runnels
Fountain	Mann	Russo
Fraser	Matsunaga	Ryan
Fuqua	Mazzoli	St Germain
Gaydos	Melcher	Santini
Giaimo	Metcalfe	Sarasin
Gibbons	Meyner	Sarbanes
Green	Mezvinsky	Satterfield
Gude	Mikva	Scheuer
Guyer	Milford	Schroeder
Hall	Miller, Calif.	Sharp
Hamilton	Mineta	Shipley
Hanley	Minish	Shriver
Hannaford	Mink	Sisk
Harkin	Mitchell, Md.	Slack
Harrington	Moakley	Smith, Iowa
Harris	Moffett	Solarz
Hawkins	Moorhead, Pa.	Spellman
Hayes, Ind.	Morgan	Stanton, James V.
Hechler, W. Va.	Mosher	
Hefner	Moss	Stark
Heinz	Mottl	Steed
Helstoski	Murphy, Ill.	Steelman
Henderson	Murphy, N.Y.	Stokes
Hicks	Myers, Pa.	Stratton
Hightower	Natcher	Studds
Holland	Neal	Symington
Holtzman	Nedzi	Thompson
Horton	Nix	Thone
Howard	Nolan	Thornton
Howe	Nowak	Traxler
Hubbard	Oberstar	Tsongas
Hughes	Obey	Udall
Hungate	O'Hara	Van Deerlin
Jacobs	O'Neill	Vander Veen
Jenrette	Ottinger	Vanik
Johnson, Calif.	Passman	Vigorito
Jones, Ala.	Patman, Tex.	Waggonner
Jones, Okla.	Patten, N.J.	Waxman
Jordan	Patterson, Calif.	Weaver
Karth		Whalen
Kastenmeier	Pattison, N.Y.	White
Kazen	Pepper	Whitten
Keys	Perkins	Wilson, C. H.
Koch	Peyser	Wirth
Krebs	Pickle	Wolff
Krueger	Pressler	Wright
LaFalce	Preyer	Wylie
Lehman	Price	Yates
Levitas	Rangel	Yatron
Litton	Rees	Young, Ga.
Lloyd, Calif.	Regula	Young, Tex.
Lloyd, Tenn.	Reuss	Zablocki
Long, La.	Richmond	Zeferetti
Long, Md.	Riegle	
McCloskey	Rodino	

NOT VOTING—24

Alexander	Hays, Ohio	Rostenkowski
Beard, Tenn.	Jones, N.C.	Staggers
Bowen	Jones, Tenn.	Stuckey
Coughlin	McKinney	Sullivan
du Pont	Madigan	Teague
Findley	Mills	Ullman
Fulton	Mollohan	Wilson, Tex.
Hammer-schmidt	Railsback	
	Roberts	

So the amendment was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Stuckey for, with Mrs. Sullivan against.

Mr. Roberts for, with Mr. Hays of Ohio against.

The result of the vote was announced as above recorded.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of H.R. 6219 to amend the Voting Rights Act of 1965. The Subcommittee on Civil and Constitutional Rights has held extensive hearings on this bill and has more than adequately documented the need for extending and expanding the provisions of the act. I commend Mr. EDWARDS of California and the members of the subcommittee for the work they have done on this legislation.

No one can deny that tremendous

strides have been made in the registration of black voters in the States covered by the landmark 1965 legislation. In 1965 only 7.7 percent of the black voting age population was registered to vote in one State covered under the provisions of the act, while in 1972 that same State had registered 63.2 percent of its black eligible voters. The Voting Rights Act has led to an increase in the number of black elected officials in the South from 72 in 1965 to 963 in 1974.

The act has been successful. It has extended the franchise to many blacks in areas of this country where the 15th amendment was nothing more than a piece of paper only 15 years ago. However, the struggle to insure that all minority citizens do, in fact, have the right to vote is a long way from over. The disparity between black and white voter registration remains high in some States. In one, the disparity is 23.6 percent; in some rural counties the gap is as great as 37 percentage points. The number of black representatives in State legislatures still is considerably below the percentage of blacks in the population in those States.

The subcommittee has documented the need for the new protections for minority language citizens as well as for blacks. Titles II and III are not only welcome, they are long overdue. The right to vote is meaningless—for practical purposes—if the potential voter is unable to comprehend voting notices and materials. Titles II and III of the committee bill will make voting a reality for many of our citizens who were previously prevented from voting in fact, if not in law.

I urge all my colleagues to support H.R. 6219 and to reject amendments that will be offered to weaken or dilute the provisions of the act. It has proven effective for black voters. It can and will be effective for language minority voters as well.

Mr. KASTENMEIER. Mr. Chairman, I am happy to strongly endorse H.R. 6219, which will extend for an additional 10 years the special provisions of the Voting Rights Act of 1965, make permanent the current temporary ban on literacy tests and other such devices, and expand the coverage of the act to certain jurisdictions where language minorities reside.

Those of us who were serving in this body in 1965 recall vividly President Johnson's appearance before a joint session of the Congress in March of that year calling for enactment of a strong voting rights bill. His appearance followed by 1 week the tragedy in Selma, Ala., where the Nation witnessed how brutally and totally local and State officials tried to put down efforts to gain for our black citizens the right to vote. The 89th Congress responded decisively to Mr. Johnson's call, and 5 months later, on August 6, 1975, President Johnson signed into law the Voting Rights Act of 1965.

In 1970, this act was extended for an additional 5 years and the provisions of the law expanded to cover new jurisdictions. The amendments in 1970 recognized that discriminatory practices in voting procedures existed not only in our Southern States, but in areas in New England, New York City, California and Arizona, as well.

In the 10 years since the Voting Rights Act has been in operation, significant gains have been made in bringing large numbers of blacks into our electoral system. Between 1964 and 1972 more than 1 million new black voters were registered in the seven covered Southern States. Additionally, the number of black elected officials in those areas has increased dramatically.

Prior to 1965 there were less than 100 elected black officials in these States. As of April 1974 there were nearly 1,000.

In the past 10 years, the Voting Rights Act of 1965 has been lauded by many as the most effective civil rights legislation ever passed by the Congress. However, despite impressive gains in the registration of blacks in covered States, the progress must still be considered limited and uneven at best. There are still States, and pockets within States, where significant discrepancies exist between the percentage of eligible blacks registered to vote and the percentage of eligible whites so registered. Although we no longer have literacy tests, poll taxes, and other blatant efforts to exclude whole classes of people from voting, there still exist more subtle, but still effective, means by which minorities are excluded, or dissuaded from registering to vote.

Evidence still can be found in substantial numbers of areas of outright exclusion and intimidation at the polls; of restrictive times and places for registration; of a lack of assistance to illiterate voters; of discriminatory purging of registration rolls; of a lack of bilingual materials at the polls for non-English-speaking persons; of failure to find voters' names on precinct lists; and of many other devices which effectively exclude or greatly dissuade minority citizens from registering to vote.

It is often said that you cannot legislate changes in attitudes. Such changes more often than not come slowly and only after experience shows that such change is not detrimental to the person or the system.

In 1965 we made the Voting Rights Act effective for only 5 years, not because we thought that was all the time required to accomplish its purpose, but because a compromise was necessary to break a filibuster in the other body. In 1970 we extended the Act for an additional 5 years, and experience has shown that we were too optimistic at that time.

There will be several amendments offered to this bill. Most of these amendments will only serve to weaken the provisions of the measure as reported by the Judiciary Committee. Mr. Chairman, we should not be here today considering how we can weaken the existing act. Rather, our attention should be focused on how this Congress can strengthen its provisions. The Judiciary Committee bill has been carefully drafted to complete the process that has only been started in the last 10 years. These provisions are vital if that goal is to be reached.

A 10-year extension of the act is needed, not only because it will likely take that much longer to finally bring to an end nearly 100 years of voting discrimination, but because such protections will be vitally needed during the redistricting and reapportionment that will take place following the 1980 census.

A permanent ban on literacy tests and other such devices is needed, not only because 14 States still have on their books laws providing for such tests and can reinstate such devices at will upon the expiration of the Federal law, but because we must remove once and for all the assumption that the illiterate are less capable of casting an informed ballot than those who can read and write.

Finally, and most important, the provisions of the Voting Rights Act must be extended to non-English speaking minorities whose voting rights are currently and effectively undermined and many of whom are excluded from participation in elections. An individual is no less informed and knowledgeable simply because English is not his or her main language. Vast amounts of evidence were presented to the Subcommittee on Civil Rights indicating that a lack of bilingual assistance for registration and voting purposes has severely limited participation in the electoral process by language minorities. In those areas where they represent significant portions of the population, devices have been used to dissipate their strength and their vote. This provision of the bill, extending the Voting Rights Act to language minorities, is perhaps the most important part of the measure before us today.

Mr. Chairman, we should be here today striving for no less a goal than providing the opportunity for maximum participation in our electoral process. No one on this floor can deny that there still exist in some areas of this country attempts to prevent such participation by certain groups of people. The Judiciary Committee bill addresses the weaknesses still existing in the system and I firmly believe that we can do no less than adopt this measure.

Finally, I want to particularly commend the chairman of the Subcommittee on Civil Rights, DON EDWARDS, for his strong commitment and dedication to the cause of justice and equality in this country. That his subcommittee produced this bill is a testament to that commitment. His work in the area of voting rights and civil rights, along with those members of his subcommittee, will, in the end, I believe, make this country more worthy of celebrating the values and principles which we will pay tribute to next year, on our 200th anniversary. Like DON EDWARDS, I wish that we did not have to legislate equality and justice. I wish it was truly in the hearts and minds of all of our fellow citizens to grant every individual the feeling of true brotherhood. Short of that, however, we must continue to rely on people like DON EDWARDS to lead the way in creating a "more perfect union," and I believe that this bill brings us one step closer to that goal.

Mr. MOFFETT. Mr. Chairman. I rise in support of H.R. 6219, the Voting Rights Act Amendments of 1975. Ten years ago this body passed landmark legislation designed to insure the voting rights of black Americans, who have his-

torically been subject to highly discriminatory literacy tests and related exclusionary devices. The results of that legislation have been most encouraging, and blacks have made genuine progress towards full representation in this country. Nonetheless, much remains to be done, and so the provisions in this bill which would extend coverage under the act for 10 years and make permanent the ban on literacy tests are absolutely necessary.

The second and third titles of this bill represent a broadening of the act which is long overdue. These sections would extend coverage under the act to several foreign language speaking minorities. Such groups as Hispanic and Asian Americans, not to mention our own native Indians and Alaskans, have long suffered from severe disenfranchisement due to language-based voting and registration barriers. Extension of voting rights coverage to these minorities will enable them to begin achieving the same gains that blacks have begun to realize since the 1965 law.

I believe the Committee on the Judiciary has developed in titles II and III a just and reasonable formula for the provision of voting rights protection to these groups, and I oppose any amendments which would weaken that protection. If we are to continue our progress in the area of minority voter participation, we must pass this bill without the numerous crippling amendments which have been proposed. I urge solid support for H.R. 6219.

Mr. WAXMAN. Mr. Chairman, 94 years after the Declaration of Independence proclaimed that all men are created equal and that government derives its rights to govern from the consent of the people, the 15th amendment to the Constitution was ratified. That amendment provided that the right of citizens to vote shall not be abridged or denied on the account of race or color. With the adoption of the 15th amendment, the Constitution came closer to realizing the ideals of the Declaration of Independence by giving them the force of law.

Although noble in principle, the 15th amendment never became a working reality. For more than a century after the Civil War, many State governments found ways around the intent of the 15th amendment by providing for literacy tests and other devices designed to keep the voting booths another white only area.

Ninety-five years after the approval of the 15th amendment, Congress found it necessary to enact legislation to insure the right to vote was not granted or denied merely on the basis of race. The landmark Voter Rights Act of 1965 broke through many of the barriers barring blacks and other minorities from the polling places. Since 1965 the Nation has seen a substantial advancement in the voting power of minorities indicating they are finally beginning to assume their rightful role of helping to shape, by the force of their participation, the direction this country will take.

This precious right to vote is the key to a representative form of government. If our Nation's citizens cannot choose their representatives or express themselves on an issue, the idea of government by, of, and for the people is rendered a cruel illusion. Not only must citizens be able to practically exercise this right to vote, however, they must also be able to do so intelligently. The 1975 Voter Rights Act extension helps insure that citizens can as a practical matter vote and that they will have the strongest opportunity to vote as informed citizens.

The 1975 act forever bans the prime tool of State discrimination—the literacy test. The act recognizes that education for minorities and for Anglos has been marked by unequal opportunity and that literacy tests given by many of our States after they have failed in their duty to adequately educate all their citizens has saved to perpetuate a racially discriminatory system. The literacy test clearly acts as an overt barrier to voting for minorities. In this day and age when broadcast media are so pervasive and literacy tests are so susceptible to discriminatory abuses, it is obvious these tests do not constitute an accurate measure of an informed electorate.

The Voting Rights Act extension also recognizes that those groups that are not able to read English are in effect discriminated against by the availability of English-only election materials. The act helps language minorities cast an effective ballot by providing for election material to be distributed in the minority's language if a jurisdiction has a significant minority population and an acutely low voter turnout.

It is my firm commitment to the principle that the right to vote should not be denied or abridged on the basis of race, color or literacy in English that moves to wholeheartedly endorse the Voting Rights Act extension.

Mr. FORD of Tennessee. Mr. Chairman, I rise to urge my colleagues to support the final passage of the voting rights extension, H.R. 6219. The Voting Rights Act of 1965 has been hailed by many to be the most effective civil rights law ever passed. It has contributed substantially to the marked increase in all forms of minority political participation in the last 10 years. At the time this act became law, minority group were severely disenfranchised at the polls. In my State of Tennessee, the Civil Rights Commission has found that only 69 percent of blacks were registered, compared with 73 percent of whites. Since the act has been in effect, however, more than 1 million new black voters were registered in the South. This represented a percentage increase from about 29 percent to over 56 percent of eligible blacks registered in the South.

The existence of the Voting Rights Act of 1965 has provided great support to minority citizens as they exercise their constitutional right to vote. The U.S. Civil Rights Commission has revealed that discrimination persists in the political process and that the promise of the 15th amendment to our Constitution and the potential of the Voting Rights Act of 1965 have not been fully realized. We have seen large increases in the numbers of minorities registered and elected to public office since the passage of the act. However, the continued need for its special provisions has been amply demonstrated. We must pass H.R. 6219 in order to prevent the destruction of the political gains minorities have attained thus far.

Mr. EDWARDS of California. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

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. 6219) to amend the Voting Rights Act of 1965 to extend certain provisions for an additional 10 years, to make permanent the ban against certain prerequisites to voting, and for other purposes, had come to no resolution thereon.

PERMISSION FOR SUBCOMMITTEE ON CEMETERIES AND BURIAL BENEFITS OF THE COMMITTEE ON VETERANS' AFFAIRS TO MEET ON JUNE 10, 16, AND 23, 1975, DURING GENERAL DEBATE AND UNDER 5-MINUTE RULE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that the Subcommittee on Cemeteries and Burial Benefits of the Committee on Veterans' Affairs be allowed to meet on the afternoon of June 10, 16, and 23, 1975, during general debate and under the 5-minute rule.

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

There was no objection.

THE 75TH ANNIVERSARY OF THE ILGWU

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

Mr. ADDABBO. Mr. Speaker, the International Ladies' Garment Workers' Union is celebrating the 75th anniversary of its founding. Since June 3, 1900, the ILGWU has provided leadership to those concerned about changing conditions in the sweatshops of the Nation and to those who wanted to pursue a vision of human dignity for workers through decent conditions, wages, hours, the right to collective bargaining, and industrial responsibility.

I want to take this opportunity to join the many friends and admirers of the activities of the ILGWU by wishing the union and all its members congratulations and best wishes on the celebration of its 75th anniversary. I would also like to call the attention of my colleagues in the House of Representatives to a special message issued on this occasion by the leadership of the ILGWU headed by Louis Stulberg, president and Sol C. Chalkin, secretary treasurer and president elect, which appeared in the special issue of "Justice," the ILGWU publication. That special message has significance for all Americans and for that reason I am placing the full text of the message in the RECORD at this point:

carried out under the upper atmospheric research program provided for under this new Title IV should be included in the Aeronautics and Space Report of the President submitted annually to the Congress.

OLIN E. TEAGUE,
DON FUQUA,
THOMAS N. DOWNING,
JAMES W. SYMINGTON,
WALTER FLOWERS,
DALE MILFORD,
ROBERT A. ROE,
CHARLES A. MOSHER,
LARRY WINN, Jr.,
JOHN W. WYDLER,
Managers on the Part of the House.

FRANK E. MOSS,
JOHN C. STENNIS,
HOWARD W. CANNON,
BARRY GOLDWATER,
PETE V. DOMENICI,
Managers on the Part of the Senate.

INTRODUCING LEGISLATION TO ESTABLISH AN AGENCY FOR CONSUMER PROTECTION

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

Mr. BROOKS. Mr. Speaker, I have introduced today a bill to establish an Agency for Consumer Protection within the executive branch. Representative BEN ROSENTHAL, chairman of the Subcommittee on Commerce, Consumer and Monetary Affairs of the Committee on Government Operations, and Representative FRANK HORTON, the ranking minority member of the Government Operations Committee, have joined me in sponsoring this legislation.

The Committee on Government Operations has had a long and continuing record of trying to assure that the interests of consumers are protected by the Federal Government. In each of the last three Congresses, consumer protection legislation was reported by our committee but, for one reason or another, was not enacted.

The bill I have now introduced is similar to one passed by the House in the 93d Congress by a vote of 293 to 94. It would create an independent agency to represent the interests of consumers before Federal agencies and the courts. The agency would also receive and transmit complaints to the appropriate department for investigation, support research, and provide information to consumers.

After years of effort by House and Senate Members, the time for better consumer protection has arrived. The Senate recently broke a filibuster effort and passed a consumer protection bill 61 to 28.

With Congressmen ROSENTHAL and HORTON, both leading consumer protection advocates, joining in introducing the legislation, I expect the bill to receive broad bipartisan support in the Government Operations Committee and on the House floor.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. MATSUNAGA. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

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

There was no objection.

RE-REFERRAL OF H.R. 1386 TO COMMITTEE ON WAYS AND MEANS

Mr. FLOWERS. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the bill (H.R. 1386) for the relief of Smith College, Northampton, Mass., and that it be rereferred to the Committee on Ways and Means.

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

There was no objection.

VOTING RIGHTS ACT EXTENSION

Mr. EDWARDS of California. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6219) to amend the Voting Rights Act of 1965 to extend certain provisions for an additional 10 years, to make permanent the ban against certain prerequisites to voting, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from California.

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 further consideration of the bill H.R. 6219, with Mr. BOLLING in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Before the Committee rose on yesterday, it had agreed that title II, ending on page 7, line 15, would be considered as read and open to amendment at any point.

Are there further amendments to title II?

AMENDMENT OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GONZALEZ: On page 4, delete subparagraph (1) on lines 10 through 12, and substitute the following:

"(1) the Attorney General determines currently maintains any test or device, and with respect to which".

On page 5, line 19, delete the word "provided" and insert in lieu thereof the words "currently provides".

Mr. GONZALEZ. Mr. Chairman, the purpose of this amendment is very simple. It is to limit the definition of "test or device" as applied in title II to those States or political subdivisions which currently maintain voting procedures only in the English language and where 5 percent or more persons of voting age belong to "a minority language group" as defined in this bill.

As the bill now stands, title II would extend coverage of the act to any State with any significant language minority population or any subdivision with such minority, except minorities as limited and defined in the act—native Americans, Indian Americans, Alaskan Natives, or of Spanish heritage. Not "Spanish speaking," not "Spanish surname," but Spanish heritage. Some people think that if somebody plays the castanets, that would tend to make him "Spanish heritage."

There may be merit in the idea that bilingual elections should be conducted in areas where there are substantial numbers of people who cannot communicate effectively in English. I do not think anyone here really seriously denies that. But I have seen—and I emphasize—I have seen nothing that any State or subdivision ever had any intention of restricting or diluting voters rights by failing to provide bilingual election materials. And I think the records of the proceedings, the testimony of Pottinger, the testimony of Fleming, in and out of the congressional committees, merely shows that they have not as yet amassed any conclusive evidence to that effect.

Yet this bill presumes that there was such an intention. Yet there is no proof of that fact that has been adduced by this or any other committee.

I believe that where a State has provided for bilingual election procedures, as my State and other States have—and I might add that the record up to now might show erroneously and unfairly for my home State—that the State of Texas moved to implement bilingual voting even before the hearings on the congressional level tended that way.

It just simply is not true to say that the State of Texas has literally had to be dragged in by the Committee on the Judiciary of the House of Representatives.

I think the Congress will recognize and accept that as a good-faith effort of redressing whatever evil existed because of English-only election materials.

I think that we ought to recognize here that there is a good degree of question about the amount of English illiteracy among language minority groups. We have very little evidence to show that the majority, or even a substantial minority, of persons of Spanish surname cannot read and write ordinary English. If that were so, we would have more Spanish language newspapers in this country. As it stands, there is no such language newspaper in my hometown, which has the most numerous content of people of Spanish heritage.

Mr. Chairman, let me say that my own father was able to live and make a living for our family without having to speak English because he was the editor of a Spanish language daily which died out in the 1950's because of lack of demand or readers, just like German newspapers that used to be printed in the neighbor city of New Braunfels died because of new generations of German Americans, Mexican Americans, Spanish Americans and Indian Americans are not reading in those languages and are not seeking and are not demanding daily newspapers or even weekly newspapers.

But let us assume that there is a need to provide bilingual election materials where a State has already moved to do that.

The CHAIRMAN. The time of the gentleman from Texas (Mr. GONZALEZ) has expired.

(By unanimous consent, Mr. GONZALEZ was allowed to proceed for 1 additional minute.)

Mr. GONZALEZ. Mr. Chairman, I see no reason to bring such a State under the terms of this act where the State has already moved to implement the very things that we say we desire, unless we are seeking not equality of opportunity or choice but we want to get even or we want to sort of get punitive about this.

Finally, let me say that I am not alone in my doubts about the need for this coverage. Neither the Assistant Attorney General for Civil Rights nor the Chairman of the Commission on Civil Rights said that there was any demonstrated need for this type of extension. The committee itself seems to have doubts about its legislation, because it directs in title V that special census surveys be made to gather data relevant to the purposes upon which we are being asked to vote today.

Even the committee says it does not have the data, but it hopes that if it has a census, maybe it will be able to make a case. But in the meantime we would have the law foisted on the people and on the States.

Mr. BADILLO. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman from Texas (Mr. GONZALEZ) says that the purpose of his amendment is merely to change the definition of "test or device." What it does is really to exclude the State of Texas from the Voting Rights Act, because what was done in title II was to provide that any State which had only an English-speaking election and which had more than 5 percent Spanish-speaking people or a language minority and less than 50 percent turnout in the 1972 election should be included within the full coverage of the act.

Title III has to do with illiteracy. Title II has nothing whatsoever to do with illiteracy. Title II would include Texas within the full coverage of the act, just as other Southern States, because the evidence is clear that Texas has practiced this same kind of discrimination as the other States have. The gentleman from Texas argues that perhaps the witnesses who testified before our committee were not telling the truth.

The gentleman says that perhaps there should have been a trial. I want to remind the gentleman that there were trials, and I will read to the gentleman from opinions of the Supreme Court which, after a trial, have made certain findings.

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

Mr. BADILLO. Yes, certainly.

Mr. GONZALEZ. Mr. Chairman, will the gentleman please give me documentation of that?

Mr. BADILLO. Immediately.

Mr. GONZALEZ. And will the gentleman give me specifics of cases in the State of Texas where they have been denied the right to vote, because of their ethnic origin?

Mr. BADILLO. Yes, sir, I will.

First, in *White* v. *Regester*, 412 U.S. 755, in 1972 the Supreme Court of the United States held that the multimember districts were unconstitutional. The court said as follows: The procedures in Texas "have operated to effectively deny Mexican-Americans access to the political processes—even longer than the blacks were formally denied access by the white primary."

That is a finding of the Supreme Court.

Then we have *Garza* v. *Smith*, 320 F. Supp., 131, 1971. The Federal court held that the Texas statute preventing non-English-speaking people from having assistance in voting was unconstitutional.

In United States against Texas, the Federal court handed down an opinion that the poll tax was unconstitutional and the purpose of the poll tax was to disenfranchise the minority group of the State of Texas.

Mr. Chairman, I am now going to 1974. And we have the case of Robinson against Commissioners' Court. The Federal court held that the Anderson County apportionment of court commissioner's district was a gerrymander intended to dilute votes of county minority residents.

In the case of Weaver against Commissioners' Court, again in 1974, the Federal court held that the Nacogodoches County, Tex., apportionment of that district was a gerrymander intended to dilute votes of minority residents.

In Smith against Craddock, the decision of the Texas Supreme Court was that the 1970 apportionment of the Texas Legislature was unconstitutional.

Mr. Chairman, I could spend the whole day reading decisions that have been made after a trial, I will say to the gentleman from Texas (Mr. GONZALEZ)—and these were decisions relating to the State of Texas which have indicated clearly that the State of Texas has consistently discriminated against blacks and against Mexican-Americans.

The only reason Texas was not included in the 1965 act is because they were much more subtle than some of the other States. They never had a formal literacy test and, therefore, they were able to escape the formula.

The problem is this: We have all of these cases, but we are in the same situation in Texas that we were in the other States prior to 1965. The 1957, 1960, and 1964 Civil Rights Acts were ineffectual, because they only gave the individuals the right to go to court on a case-by-case basis. Therefore, you could go to court and win the case, but that does not settle the basic, fundamental problem of class discrimination. If we are going to attack the basic problem of class discrimination, we cannot continue to rely on the case-by-case approach. We have to include the State of Texas fully within the coverage of the act so that the burden of proof shifts to the State of Texas when it tries to carry out the kind of gerrymandering procedure that it has been carrying out as late as last year and this year.

The question of literacy has nothing to do with the question of gerrymandering. It has nothing to do with the problems of reapportionment. It has nothing to do with the efforts by the State of Texas, which, as has been proved in the courts, have been dedicated to discriminate against the minority citizens.

Mr. BROOKS. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment offered by the gentleman from Texas (Mr. GONZALEZ).

In 1965, Congress enacted legislation to eliminate massive voter discrimination then being practiced against members of a particular race. The remedy employed was tough and the procedure unusual. But, the Supreme Court upheld the constitutionality of our act on the grounds that the facts supported the deed.

Today, we are asked to extend the coverage of the act to States that, in 1972, had not passed bilingual laws.

The basis of this proposal is that failure of States to enact such legislation before 1972 was an act so blatantly discriminatory under the 14th and 15th amendments that Congress has the obligation to apply the extraordinary remedies of the Voting Rights Act to such States. Yet, the hearing record before us fails to support those assumptions. As Congressman GONZALEZ stated, both the Justice Department's and Civil Rights Commission's witnesses maintained that the present evidence does not support a conclusion that lack of bilingual elections laws are a major source of voter discrimination.

Title II is also being justified on the assumption that large numbers of "language minority" individuals are being denied the right to vote, because they cannot read, write, or understand English. Yet, not only is there no currently reliable evidence to support this allegation, the language of title II itself speaks in terms of national origin and not ability to communicate in English.

Finally, the nature of the alleged discrimination can be cured immediately by States' enacting bilingual election laws. The States of California and Texas enacted such legislation out of a sense of fairness and not as a result of allegations of discrimination made before the Judiciary Committee. Yet, H.R. 6219 locks a State into the Voting Rights Act for an indefinite duration even though a State enacts an effective bilingual law.

If a State meets the test, they should be exempted.

I urge all Members on the grounds of fairness and good legislative practice to adopt the Gonzalez amendment.

Mr. Chairman, I had supported the Voting Rights Act originally in 1965 and the extension. I have served on the Committee on the Judiciary for almost 20 years. I have enjoyed it, and I respect the work and the effort of the subcommittee of the gentleman from California (Mr. EDWARDS), in trying to extend the Voting Rights Act in the hope that we can spread the opportunity to vote.

But the candid facts are that everybody in Texas who wants to vote can vote, and they do vote. We beg and borrow trucks, automobiles, Volkswagens, anything we can get to take people to the polls, and to encourage people of all races to vote.

Every Democrat in my State wants everybody to vote. I would be for a tax or a doctor's certificate for not voting rather than any other prohibition.

I would tell the Members that if any State meets the test of bilingual election laws, as we have done, as California has done, then they should be exempted even though they had not done that in 1972, an arbitrary date selected by the subcommittee.

I would urge all Members on the grounds of fairness and good legislative practices to adopt the amendment offered by the gentleman from Texas (Mr. GONZALEZ).

Mr. KAZEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the amendment offered by my colleague, the gentleman from Texas (Mr. GONZALEZ) should certainly deserve the serious consideration of everyone. All the gentleman speaks about is the language deficiency, which the State of Texas, as the Members have heard, has already taken care of. But, more than that, no one has ever accused the State of Texas or any of its jurisdictions of discriminating against anyone, because of language deficiency.

I had the privilege of serving as chairman of the elections committee in the State senate in Texas. I saw to it at that time, many years ago, that every man and woman who went into a polling booth, that if they did not understand the ballot, they were entitled to an interpreter. I know of no other State, as far back as the date when Texas enacted that law, that had that kind of a provision in their laws. So that the language barrier in Texas has never been deterrent to anyone's voting ability or voting right.

As I understand from reading the hearings, the committee took extensive testimony, but did they ever hear the other side of it?

For instance, in the report, they say:

In 1972, in Pearsall, Texas, for example, the City Council, while refusing to annex compact contiguous areas of high Mexican American concentration, chose to bring a 100 percent Anglo development within the city.

They got that information from a former lawyer who was paid by the Mexican-American Defense Fund. But, did they bother to talk to anyone in position of responsibility that had anything to do with that action? If they had, I am sure they would have found other reasons, as my colleague, Mr. GONZALEZ, found about the situation in San Antonio but the committee has made this accusation, by taking the testimony of one man and they did not bother to go to the officials in Pearsall or in San Antonio to find out why this was done. It certainly was not done on a language deficiency basis and that is at what this amendment is directed.

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

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

Mr. GONZALEZ. Mr. Chairman, I thank my colleague for yielding to me.

Mr. Chairman, I think both in fairness to the gentleman from Texas and in fairness to me, since we both have had extensive experience on the local and State legislative levels in Texas, that we should verify the record and correct it from the misleading and, in fact, I will repeat the charge already stated before the Members yesterday, the mendacious assertions that have just been made by the gentleman from New York (Mr. BADILLO). Now, that gentleman is from New York and, let me say we welcome and appreciate his interest in defending and protecting Texas, but let me reassure the Members that we do not need his help, we have been able to do this ourselves in the State of Texas, and did so long before the State of New York even was able to think of electing a bilingual Spanish-speaking person; we have had them elected in droves in the State of Texas, we did it statewide in the State senate and legislature.

But, on top of that, the gentleman from New York has distorted the net content and impact of my amendment.

My amendment has nothing to do with deleting title II, it merely says that we shall not have nunc pro tunc, or ex post facto laws. It says that we have had now, currently, a measure that will correct the malpractice, not to dig into past events or sins of some State for what it might have done in the past, but which it is no longer doing. That is the issue. That is what my amendment is addressing itself to, and it has nothing to do with the distorted sense of history.

The gentleman was not here in 1965, and it is a malicious slander to say that the State of Texas escaped coverage under the Civil Rights Act merely through some slight handiwork or footwork. It was not covered, I will say to the gentleman. It was not covered, just like Maryland was not, and just like New York was not, for the same exact reason.

Mr. KAZEN. Mr. Chairman, I would further point this out to this committee. I do not take a back seat to anyone where civil rights are concerned. I got up 28 years ago as the first legislator in the South and stood up against segregation. I have a long legislative record in favor or civil rights, and I do not have to bring my credentials onto this floor. It is with pride that I say I yield to no one in this field.

But I tell my colleagues that I represent counties right now whose populations are approximately 70 percent Mexican American whose elected officials in county government, in city government, in school districts, are practically all Mexican Americans.

The language deficiency on the ballot has not in any way hindered those jurisdictions.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. KAZEN was allowed to proceed for 2 additional minutes.)

Mr. KAZEN. We have always been interested in registering everyone. We took the lead in abolishing the poll tax in Texas, my colleague, the gentleman from San Antonio (Mr. GONZALEZ) and I, while we were Members of the Senate. I abhorred the poll tax. I think that paying for the privilege of voting was wrong and I was glad to be a part of the movement that abolished the poll tax in Texas.

Then we passed a very liberal registration law and everyone who wishes can be registered. We even register by post card. There is no impediment to registration. Our problem is getting people interested enough to vote. If the Members could tell us by this bill how we can get more people to register and get out and vote, we would be grateful to them, but certainly the procedures stated here will not have that effect.

Tell me again, how does one "bail out" in those jurisdictions where the majority of the people are all of "Spanish heritage" as is defined in this bill, where the majority of elected officials from counties, cities, down to school boards, are all Mexican Americans? How do they "bail out" from under this bill? We have already accomplished in those counties what my colleagues presumably are trying to accomplish by this bill.

If their bill pertained to specific areas in the State of Texas as they do to California and to other States, I would probably not have this argument to make, and I would agree with them. But why—why should every single jurisdiction that falls within all of these guidelines—those things that my colleagues say they want to accomplish by this bill—why should they have to live permanently under the provisions of a bill that forces upon them what they already have?

The CHAIRMAN. The time of the gentleman has expired.

Mr. ROYBAL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is not my intention to involve myself in a personality clash, but I really fail to understand why all of a sudden we are getting arguments to the effect that Texas is so fair to its voters, particularly the Mexican American and the black Americans of the State of Texas. I think history clearly proves that that is not the case. If we go back to history itself, we will find that the State of Texas is perhaps the most discriminatory State insofar as the minority group is concerned, in the Nation.

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

Mr. ROYBAL. I will, as soon as I complete my statement. I have offered an opinion based on fact, and based on decisions of the courts.

If this amendment were adopted it would of course enable Texas to escape the special remedies of the Voting Rights Act. Texas then would be exempt from the requirements of section 5, preclearance by the Attorney General, which is a vital and essential remedy under the act.

The purpose of section 5 is to prevent covered jurisdictions from instituting voting practices and procedures which are discriminatory in purpose and effect.

Further, it would exempt Texas from the provisions allowing the Attorney General to send Federal examiners and observers into the State of Texas when necessary to safeguard the voting rights of minority citizens.

In May, 1975, a letter from the Department of Justice pointed to a sub-

stantial line of cases involving voting discrimination which support the constitutionality of section 5 as applies in such newly covered jurisdictions as Texas.

Beginning in 1926 the courts have struck down a number of statutes in the State of Texas designed to maintain the white primary system and declared the State's poll tax unconstitutional in 1966. That is a long time ago, but subsequently the State enacted what the court in Graves against Barnes (1972) described as the most restrictive voter registration procedure in the Nation.

I did not say this. It is the court that is saying this.

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

Mr. ROYBAL. Not at this point.

The CHAIRMAN. The gentleman declines to yield.

Mr. ROYBAL. Mr. Chairman, the court noted the adverse impact of Texas voting practices on Mexican-Americans and went on to say this:

> This cultural and language impediment, conjoined with the poll tax and the most restrictive voter registration procedures in the Nation have operated to effectively deny Mexican Americans access to the political processes in Texas . . .

I am not saying that. The court said that.

In 1972, a three-judge Federal court ruled that the use of multimember districts for the election of State legislators in two counties were unconstitutional and diluted the voting strength of Mexican-Americans and blacks in those counties.

I am not saying that. The court said that.

In 1973, the Supreme Court upheld a lower court finding which noted that the Mexican-American population in Texas had—

> historically suffered from, and continues to suffer from, the results and effects of invidious discrimination and treatment in the fields of education, employment, economics, health, and politics . . .

In 1974, a three-judge district court reemphasized its findings that Texas has

> a history pockmarked by a pattern of racial discrimination that has stunted the electoral and economic participation of the black and brown communities in the life of the State.

The court ruled that in several districts, including most of El Paso County—

> the present multi-member scheme operates to deny black and brown voters access to the political process.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. KAZEN, and by unanimous consent, Mr. ROYBAL was allowed to proceed for 1 additional minute.)

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

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

Mr. KAZEN. Mr. Chairman, if the gentleman heard my statement, I was talking about particular jurisdictions in Texas and I pointed out those jurisdictions in which I think the application of this law is unfair. Why could the committee not have carved out, as they did in California and other States, these jurisdictions in which there is no such history as the gentleman read?

Mr. ROYBAL. That is probably a question the committee would have to answer. We are faced now with the problems that exist at the moment.

Mr. KAZEN. But the gentleman is making a blanket indictment of the entire State of Texas, and this is my point of contention.

Mr. ROYBAL. Well, my point of contention is that the courts have come out with a certain definite finding that includes the whole State of Texas. I do not doubt that there are counties in the State of Texas as the gentleman has stated that probably do not come under every particular provision of the legislation before us, including, perhaps, a county that the gentleman represents; but the courts, nevertheless, do involve the entire State in this matter.

Mr. KAZEN. Based upon that, we are passing legislation that affects the innocent along with the guilty.

Mr. ROYBAL. In that particular case, pehaps an amendment that would apply to those particular counties would be in order, but the amendment before us would take the entire State of Texas out of this act.

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

(At the request of Mr. GONZALEZ and by unanimous consent, Mr. ROYBAL was allowed to proceed for 2 additional minutes.)

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

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

Mr. GONZALEZ. Mr. Chairman, the gentleman from California has taken the floor and put into the RECORD what purports to be a very sorry history of judicial decisions concerning exclusively and, oddly, only for the State of Texas. He has very comfortably—and surely he does not come from Texas—so he has very comfortably and conveniently overlooked his native State of California.

I will ask the gentleman exactly how many members of the California Legislature were of Mexican descent in the decade between 1960 and 1970?

Mr. ROYBAL. Mr. Chairman, I do not think that there were any.

Mr. GONZALEZ. That is correct; there were in Texas and more than just a handful.

Mr. ROYBAL. But may I clarify—I still have the floor.

Mr. GONZALEZ. The gentleman is saying that in Texas—will the gentleman yield further?

Mr. ROYBAL. I do not continue to yield if I am not able to answer some of the gentleman's questions. The gentleman asked whether or not between 1960 and 1970 there was anyone of Mexican descent in the California State Legislature. If the gentleman includes 1960, I would have to say no; but in 1962 there were two elected to the State legislature. At the present time there are five and one Senator; so there has been some progress made in California.

This is not to say that California has not been discriminatory in its voting practices. Yes, it has; but the amendment before us does not include California. It only includes Texas.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield further, because that is the point I want to make.

Mr. ROYBAL. Yes, I yield.

Mr. GONZALEZ. My amendment says nothing about Texas. He says if any segment like California is not now in any way derelict, although it might have been in 1960, like California, or 1972, as the bill sets forth, then this act would apply only to current practices.

The gentleman is saying my amendment would take Texas out.

Mr. ROYBAL. It will.

Mr. GONZALEZ. It will take it out only if Texas is not practicing any of the malpractices in voting that it practiced in 1972.

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

(At the request of Mr. WHITE and by unanimous consent, Mr. ROYBAL was allowed to proceed for an additional 3 minutes.)

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

Mr. ROYBAL. Yes. I yield to the gentleman from Texas.

Mr. WHITE. Mr. Chairman, the gentleman in the well mentioned one county, which happens to be my home county. I would like to clarify for the record some elements of the decision that he recited. I think he is talking about the Barnes case. One element of the decision used as an indicia of discrimination, the percentage of votes in a barrio along the river.

I want to say that a great number of people in that section are not even citizens of the United States, which would account for the small percentage of votes cast in that area.

The second part on which the court based its decision was that the county clerk, who happened to be of Mexican American origin, excluded the opportunity for persons of Mexican American origin to take voter registration books out of the clerk's office.

The fact was at that particular point of time he denied anyone of any race taking voter registration books out of his office because there were allegations of corruption in the use of those books.

He required everybody to come in and register, and that is the only time he ever did that.

My county is the first county in the State of Texas to have desegregated after the Supreme Court decision. I personally am not aware of any discrimination or avoidance of any opportunity to vote in my area. Our State senator is Mexican American. We have representatives who are Mexican American. Two of the four commissioners of the commissioners court are Mexican American. The last term, I think there were three—of the four aldermen who are Mexican American. I vote Mexican Americans. They have been my friends. I have gone to school with them.

I really believe the court was a little bit heavy-handed in its decision. El Paso County is devoid of any discrimination. The fact is that in the election area

there has been no prejudice shown, no discrimination shown.

Mr. ROYBAL. I am not here to try to second guess what the courts did. The only thing I did was to read their decisions. I do not know that they were in error, but in this particular instance the Supreme Court upheld the decision of the lower court, so it did get a thorough review.

Mr. WHITE. May I point out one more thing? In many of the Mexican American areas, when they are talking about population, the average age is very low. In fact, the average age in my home county happens to be 18 years of age. At the time they are speaking about, 18-year-olds were not even allowed to vote, so that in those particular areas, especially Mexican American areas, the average age was far below the voting age.

Therefore, I feel that the facts on which the Supreme Court made its decision were either distorted or were wanting in full elaboration. I feel the decision did not reflect the true facts.

Miss JORDAN. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment offered by the gentleman from Texas.

Mr. Chairman, I would think it rather strange if the majority of the Members of the Texas delegation came into this House and asked to be covered under the Voting Rights Act of 1965. That would be a strange circumstance for most. But, it must be kept in mind that we are talking about more than language. The language minority provision is simply a part of a triggering device; it is not the sole ill, the single wrong which the Voting Rights Act addresses.

The Voting Rights Act addresses a multiplicity of wrongs, and the triggering device, 5-percent language minority, makes it possible for the act to become operative to help cure and resolve that plethora of problems which have been discussed in numerous exchanges.

Another point: Yes, Texas passed a bilingual elections law. It is because of that act by the Texas legislature this year, scarcely a month ago, that Texas is to be relieved and freed from the operative provisions of section 5. What has not been said about the law as passed in the State of Texas, in addition to only addressing a small corner of the problem, language, is that the particular law does not even address the entire population we are seeking to help by this legislation.

When we find a covered jurisdiction in the bill, we are talking about a State. The law, as it was passed by the Texas legislature, talks about a precinct, and under the provisions of the law as the Texas legislature passed it, if 5 percent of a language minority does not live in a given precinct, it is not covered under the provisions of the Texas law.

Because of that, there are approximately 102 counties which could escape coverage under the Voting Rights Act if Texas were to become exempt and we only rely on the bilingual elections law. I can say 102 counties—and we are talking about more than 30,000 Mexican American people in Texas—which would not be covered because of the limiting provisions of the State law itself.

Let us say this: The Voting Rights Act employs extraordinary remedies to try to resolve an extraordinary problem. The remedy does not exceed the wrong. I feel that if we were to reject this amendment offered by the gentleman from Texas, that the people of Texas would become as comfortable with the oversight provisions of this law as have the other jurisdictions of the county who have lived with the law for the past 10 years.

Mr. EVANS of Colorado. Mr. Chairman, will the gentlewoman yield?

Miss JORDAN. Yes, I will yield to the gentleman.

Mr. EVANS of Colorado. Mr. Chairman, I thank the gentlewoman for yielding. I appreciate the clarity with which the gentlewoman speaks to this issue. I am concerned about Title III. For the first time, many counties in my district in Colorado will be included, being triggered by virtue of the fact that there are 5-percent minority groups and that less than 50 percent voted in the last election under circumstances where we had no bilingual voting material.

Mr. Chairman, I am concerned about many of my counties being included under this act. What procedures are available to these counties to bring them out from under the provisions of the act?

The CHAIRMAN. The time of the gentlewoman has expired.

(On request of Mr. EVANS of Colorado, and by unanimous consent, Miss JORDAN was allowed to proceed for 2 additional minutes.)

Miss JORDAN. Mr. Chairman, in response to the question of the gentleman from Colorado, we talked about this at some length yesterday as a part of the discussion of what was known as the Butler impossible "bailout" amendment.

In my judgment, it would not be impossible for the jurisdictions of Colorado which are covered to "bail out" from under the current provisions of the act.

If one can show compliance with the law; if that jurisdiction, that county which is covered, can show that it has complied with the law—"compliance" being no impediment to voting processes or voting procedures being exercised by the county—if one can show that, one can go into the district court here, if the bill remains as it is, and seek a declaratory judgment, asking to be relieved of further coverage of the act.

Mr. EVANS of Colorado. Mr. Chairman, will the gentlewoman yield further?

Miss JORDAN. Yes, I yield to the gentleman.

Mr. EVANS of Colorado, Would this be on a county-by-county basis, or would this be done by the State?

Miss JORDAN. No. In the gentleman's instance, since the whole State is not covered, it would have to be by the specific jurisdiction covered. It would be a county. It would not be statewide.

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

Miss JORDAN. I yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentlewoman for yielding.

Carrying that one step further, as far as Webb County in Texas is concerned, how would it ever "bail out"?

Miss JORDAN. They would have to "bail out," I would say in response to the gentleman from Texas, as any community in a State where the whole State is covered would have to respond. That is, they would go to the attorney general in Texas and seek relief via the declaratory-judgment route.

Mr. KAZEN. The attorney general of the State of Texas?

Miss JORDAN. It would have to be the attorney general of the State of Texas, in response to some specific county within Texas who says, "We are now all right, and we would like to get out." It would have to be State action.

The CHAIRMAN. The time of the gentlewoman has expired.

(On request of Mr. ROUSSELOT, and by unanimous consent, Miss JORDAN was allowed to proceed for 1 additional minute.)

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

Miss JORDAN. Yes, I will yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentlewoman for yielding. Is the English language considered under this law as one of those impediments?

Miss JORDAN. The English language is not considered an impediment, I would say to the gentleman from California.

Mr. ROUSSELOT. That is not my understanding of the provisions.

Miss JORDAN. I think the gentleman understands this bill very well, from what it says.

Mr. ROUSSELOT. But the English language could in fact be an impediment, could it not, lack of understanding of the English language?

Miss JORDAN. All right. If a ballot or election materials which are printed are not familiar or recognizable to the minorities in a given jurisdiction, then to print an English-only ballot would be an impediment to that person's right to vote.

Mr. ROUSSELOT. So now we are confronted with a bill that puts up the English language as an impediment. Incredible.

I thank the gentlewoman for answering my question.

Miss JORDAN. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. GONZALEZ).

The question was taken; and on a division (demanded by Mr. GONZALEZ) there were—ayes 23, noes 30.

So the amendment was rejected.

AMENDMENTS OFFERED BY MR. ARMSTRONG

Mr. ARMSTRONG. Mr. Chairman, I offer amendments to title II and title III, and I ask unanimous consent that this amendment, which in effect is two amendments, be considered en bloc, just in consideration of the time of the committee, because the amendment accomplishes the same purpose at 2 points in the act.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. ARMSTRONG: On page 7, line 9 and on page 9, line 23, after the word "heritage" insert the following:

"but not including persons whose dominant language is English".

Mr. ARMSTRONG. Mr. Chairman, in title II and in title III of the bill triggers on "language minorities." On page 4 of the bill is a finding by the Congress that "Voting discrimination against citizens of language minorities is pervasive and national in scope. Such minority citizens are from environments in which the dominant language is other than English."

Mr. Chairman, I think it is the intention of the act not to include in the definition of language minorities those persons who in fact are fluent in English and who speak and read and write English.

So all my amendment does is amend the definition section of this bill on page 7 and again on page 9 to assure that such English-speaking persons are not inadvertently included.

Mr. Chairman, if my amendment is adopted, as I trust it will be, that definition will then read as follows: "* * * 'language minorities' or 'language minority group' means persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage but not including persons whose dominant language is English."

I believe that explains the amendment. May I also explain that the phrase "dominant language is English," is not one of my choosing. In fact, the phrase seems a bit awkward to me. But I have expressed the amendment in these terms since that is the explanation which appears on page 4 of the bill, and I thought it was more important that the amendment follow the earlier construction than to draw more eloquent or descriptive language.

With that explanation, Mr. Chairman, I hope that my amendment will be adopted.

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

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

Mr. DRINAN. Mr. Chairman, it is my understanding that the Census Bureau has no statistics and no category which would fall into the classification of the "dominant language."

How, therefore, would the gentleman suggest that statistics by which the law could become operational would be obtained?

Mr. ARMSTRONG. Mr. Chairman, the Census Bureau is certainly equal to providing such data. I have conformed my amendment to the language which already appears in the bill at line 21, page 4, as follows:

Such minority citizens are from environments in which the dominant language is other than English.

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

The CHAIRMAN. Evidently a quorum is not present.

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

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. 101 Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The Chair recognizes the gentleman from Colorado (Mr. ARMSTRONG).

Mr. ARMSTRONG. Mr. Chairman, for the benefit of those who have come into the Chamber during the quorum call, let me simply explain that my amendment clarifies the definition of the term "language minorities." On page 4 of the bill the language is as follows:

The Congress finds that voting discrimination against citizens of language minorities is pervasive and national in scope. Such minority citizens are from environments in which the dominant language is other than English.

My amendment simply adds the words "but not including persons whose dominant language is English" to the end of the section as it appears on page 7, line 9 of the bill, so that persons who are in fact oriented to the English language will not be inadvertently included in the triggering language.

With the adoption of my amendment, this section will now read:

The term "language minorities" or "language minority group" means persons who are American Indian, Asian American, Alaskan Natives or of Spanish heritage, but not including persons whose dominant language is English.

Mr. Chairman, I urge the adoption of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. ARMSTRONG).

The question was taken; and on a division (demanded by Mr. EDWARDS of California), there were—ayes 18, noes 27.

Mr. ARMSTRONG. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 259]

Alexander	Goodling	Rhodes
Andrews, N.C.	Harsha	Risenhoover
Archer	Hébert	Rose
Beard, R.I.	Heckler, Mass.	Rosenthal
Beard, Tenn.	Helstoski	Rostenkowski
Bell	Hinshaw	Runnels
Boland	Jarman	Ruppe
Burton, John	Jenrette	Ryan
Carr	Jones, Tenn.	Scheuer
Cederberg	Kemp	Sikes
Conlan	Landrum	Stanton,
Conyers	Leggett	James V.
Crane	Madigan	Steed
Diggs	Mathis	Steiger, Ariz.
Dingell	Mollohan	Stokes
Duncan, Oreg.	Murphy, N.Y.	Stuckey
du Pont	Myers, Pa.	Teague
Early	Neal	Ullman
Esch	Passman	Van Deerlin
Fish	Quillen	Wiggins
Foley	Railsback	Wilson, C. H.
Fulton	Rangel	Wilson, Tex.
Fuqua	Rees	Wright

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. 6219, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 365 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand for a recorded vote made by the gentleman from Colorado (Mr. ARMSTRONG) on his amendment.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 122, noes 292, not voting 19, as follows:

[Roll No. 260]

AYES—122

Archer	Ginn	Moorhead,
Armstrong	Goldwater	Calif.
Ashbrook	Goodling	Myers, Ind.
Bafalis	Hagedorn	Nichols
Bauman	Haley	Pettis
Beard, Tenn.	Hansen	Poage
Bennett	Harsha	Pritchard
Bevill	Hastings	Quie
Bowen	Hébert	Quillen
Brinkley	Hillis	Randall
Broomfield	Hinshaw	Rhodes
Brown, Ohio	Holt	Risenhoover
Broyhill	Hutchinson	Roberts
Burgener	Hyde	Robinson
Burke, Fla.	Ichord	Rousselot
Burleson, Tex.	Jarman	Runnels
Butler	Johnson, Colo.	Schneebeli
Casey	Johnson, Pa.	Schulze
Cederberg	Jones, Okla.	Sebelius
Chappell	Kasten	Shuster
Clancy	Kelly	Sikes
Clawson, Del	Kemp	Skubitz
Cochran	Ketchum	Smith, Nebr.
Collins, Tex.	Kindness	Snyder
Conable	Krebs	Spence
Crane	Lagomarsino	Steed
Daniel, R. W.	Latta	Steiger, Ariz.
Derwinski	Lent	Stephens
Devine	Lott	Symms
Dickinson	Lujan	Taylor, Mo.
Downing	McClory	Taylor, N.C.
Duncan, Tenn.	McCollister	Treen
Edwards, Ala.	McDonald	Vander Jagt
English	McEwen	Wampler
Erlenborn	McKay	White
Esch	Martin	Whitehurst
Eshleman	Michel	Wilson, Bob
Evans, Colo.	Milford	Wright
Flynt	Miller, Ohio	Wydler
Forsythe	Montgomery	Young, Alaska
Frey	Moore	Young, Fla.

NOES—292

Abdnor	Boland	Cornell
Abzug	Bolling	Cotter
Adams	Bonker	Coughlin
Addabbo	Brademas	D'Amours
Ambro	Breaux	Daniel, Dan
Anderson,	Breckinridge	Daniels, N.J.
Calif.	Brodhead	Danielson
Anderson, Ill.	Brown, Calif.	Davis
Andrews, N.C.	Brown, Mich.	de la Garza
Andrews,	Buchanan	Delaney
N. Dak.	Burke, Calif.	Dellums
Annunzio	Burke, Mass.	Dent
Ashley	Burlison, Mo.	Derrick
Aspin	Burton, John	Diggs
AuCoin	Burton, Phillip	Dingell
Badillo	Byron	Dodd
Baldus	Carney	Downey
Barrett	Carr	Drinan
Baucus	Carter	Duncan, Oreg.
Beard, R.I.	Chisholm	Early
Bedell	Clausen,	Eckhardt
Bell	Don H.	Edgar
Bergland	Clay	Edwards, Calif.
Biaggi	Cleveland	Eilberg
Biester	Cohen	Emery
Bingham	Collins, Ill.	Evans, Ind.
Blanchard	Conte	Evins, Tenn.
Blouin	Conyers	Fascell
Boggs	Corman	Fenwick

Findley	Long, La.	Rodino
Fish	Long, Md.	Roe
Fisher	McCloskey	Rogers
Fithian	McCormack	Roncalio
Flood	McDade	Rooney
Florio	McFall	Rose
Flowers	McHugh	Rosenthal
Foley	McKinney	Roush
Ford, Mich.	Macdonald	Roybal
Ford, Tenn.	Madden	Russo
Fountain	Madigan	Ryan
Fraser	Maguire	St Germain
Frenzel	Mahon	Santini
Fulton	Mann	Sarasin
Fuqua	Matsunaga	Sarbanes
Gaydos	Mazzoli	Satterfield
Giaimo	Meeds	Scheuer
Gibbons	Melcher	Schroeder
Gilman	Metcalfe	Seiberling
Gradison	Meyner	Sharp
Grassley	Mezvinsky	Shipley
Green	Mikva	Shriver
Gude	Miller, Calif.	Simon
Guyer	Mills	Sisk
Hall	Mineta	Slack
Hamilton	Minish	Smith, Iowa
Hanley	Mink	Solarz
Hannaford	Mitchell, Md.	Spellman
Harkin	Mitchell, N.Y.	Staggers
Harrington	Moakley	Stanton,
Harris	Moffett	J. William
Hawkins	Moorhead, Pa.	Stanton,
Hayes, Ind.	Morgan	James V.
Hays, Ohio	Mosher	Stark
Hechler, W. Va.	Moss	Steelman
Heckler, Mass.	Mottl	Steiger, Wis.
Hefner	Murphy, Ill.	Stokes
Heinz	Murphy, N.Y.	Stratton
Helstoski	Murtha	Studds
Henderson	Natcher	Sullivan
Hicks	Neal	Symington
Hightower	Nedzi	Talcott
Holland	Nix	Thompson
Holtzman	Nolan	Thone
Horton	Nowak	Thornton
Howard	Oberstar	Traxler
Howe	Obey	Tsongas
Hubbard	O'Brien	Udall
Hughes	O'Hara	Van Deerlin
Hungate	O'Neill	Vander Veen
Jacobs	Ottinger	Vanik
Jeffords	Passman	Vigorito
Jenrette	Patman, Tex.	Waggonner
Johnson, Calif.	Patten, N.J.	Walsh
Jones, Ala.	Patterson,	Waxman
Jones, N.C.	Calif.	Weaver
Jordan	Pattison, N.Y.	Whalen
Karth	Pepper	Whitten
Kastenmeier	Perkins	Wilson, C. H.
Kazen	Peyser	Winn
Keys	Pickle	Wirth
Koch	Pike	Wolff
Krueger	Pressler	Wylie
LaFalce	Preyer	Yates
Landrum	Price	Yatron
Leggett	Rangel	Young, Ga.
Lehman	Rees	Young, Tex.
Levitas	Regula	Zablocki
Litton	Reuss	Zeferetti
Lloyd, Calif.	Riegle	
Lloyd, Tenn.	Rinaldo	

NOT VOTING—19

Alexander	Jones, Tenn.	Ruppe
Brooks	Mathis	Stuckey
Conlan	Mollohan	Teague
du Pont	Myers, Pa.	Ullman
Gonzalez	Railsback	Wiggins
Hammer-schmidt	Richmond	Wilson, Tex.
	Rostenkowski	

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. BUTLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it was my earlier intention to introduce amendments to title II which would have stricken the words dealing with Indians and Asian Americans, because it was my view that the law did not support their inclusion, but I have also learned to count, if I have learned nothing else in the last few days, and so my intention is not to introduce these amendments.

However, if there had been a possibility that they would have succeeded in the House I would have introduced them but, in the interest of speeding things along, I will not do so.

AMENDMENT OFFERED BY MR. M'CLORY

Mr. McCLORY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLORY: On page 4, line 13, strike out "persons" and insert "citizens" in lieu thereof, and on page 11, line 13, strike out "persons" and insert "citizens" in lieu thereof.

Mr. McCLORY. Mr. Chairman, I ask unanimous consent that the amendment be considered at this time. The first part of it applies to title II, but it is the same amendment that appears to title III.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. McCLORY. Mr. Chairman, what I am trying to do in this amendment is to eliminate some inconsistency and to provide some consistency in this legislation, notwithstanding my serious objections to various parts of it.

What this amendment would do would be to change the word "persons" where it appears in title II and also in title IV and substitute the word "citizens." The reason for that is this, that the triggering device in title II is based, in part, upon 50 percent or more of the persons voting in the election. The only persons who can vote in an election are "citizens."

When we consider the language minority group in question, we talk about "citizens" of the language minority group. In other words, the bill requires on one hand 5 percent or more of the "citizens" of the language minority group, but on the other hand it requires less than 50 percent of the "persons" of voting age voting in an election, and unless we make this change——

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I will be glad to yield to the gentlewoman from Hawaii.

Mrs. MINK. I thank the gentleman for yielding.

I would like to call to the attention of the gentleman title III language on page 8, line 13, where the criterion there for determining coverage under title III of the committee bill is 5 percent of citizens of voting age.

Mr. McCLORY. Exactly.

Mrs. MINK. I suggest that perhaps the same criterion might well be used in title II. As I understand, under the gentleman's amendment, his intention is simply not to count nonvoting persons in a State or in a political subdivision for the purpose of calculating whether the 50-percent limit has been reached, and the amendment would be for no other purpose; is that a correct statement?

Mr. McCLORY. That is correct. The gentlewoman is exactly right.

Mrs. MINK. If I might comment, the gentleman's amendment would have a very direct impact on my district, particularly the city and County of Honolulu, which is the entire island of Oahu. I believe that this island is probably unique in comparison to all of the counties and political subdivisions of any Member of this body, because, being triggered under title II, as we have been since 1965 because the voting rate has been below 50 percent, this new bill under title II will very likely have the consequence of requiring that our county elections and the ballots and all the bilingual assistance appertaining thereto cover not only the two groups that I think perhaps need such assistance, that is, the Filipinos and the new Koreans that have arrived, but would also have to cover the Chinese and the Japanese whose illiteracy rate is far below the national average and who would most likely not be covered under title III.

So it seems to me in our district we may very well have to have a ballot in five languages, if we count the aliens. So I support the thrust of the gentleman's amendment that in determining the voting age population that we seek to count those who are eligible to vote but who for some reason are not registered to vote and do not vote—to count the noncitizen aliens in a district would completely nullify the accuracy of the percentage calculation. If we did not count the aliens residing on the island of Oahu, Oahu would be well above the 50-percent limit and Oahu would not be triggered in under title II; Oahu would of course be covered under title III as will all the other counties in the State of Hawaii, because we do have an excess of 5 percent of citizens who are Asian-Americans.

That is perfectly legitimate and I would support the necessity for having a bilingual ballot for those persons who because of their lack of understanding of English require such assistance. But to trigger the act under title 2 and put them under all the other onerous procedures I think is unjustified if the criteria for determining the voting age is not consistent with the principle of having them vote who are eligible to vote. That is why I support the amendment offered by the gentleman.

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

(By unnaimous consent, Mr. McCLORY was allowed to proceed for 2 additional minutes.)

Mr. McCLORY. I thank the gentlewoman. She had a very good point.

For those who feel that ultimately they want to support title II of this legislation, I think it is a very valid point that the discrepancy should be corrected.

I should also like to point out under the legislation as written we would have to count not only those who are lawfully in the area, but also illegal aliens, and they are a very serious problem in our country. It is estimated there are 6 million such people. If we are going to count illegal aliens in making the required determination, we could trigger in areas under this legislation, because of those people who are within an area contrary to the law. So I would be hopeful this amendment will be agreed to.

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

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

Mr. QUIE. Mr. Chairman, I thank the gentleman from Illinois for yielding. The testimony of Commissioner Chapman of the INS, indicated there are about 2.5 million illegal aliens who enter the United States each year. In the city of

New York, for example, it is estimated there are 1 million illegal aliens. That would have a tremendous impact on the trigger in some political subdivisions if those voting or registered are compared to both citizens and noncitizens of voting age.

We are going to have that same difficulty it seems to me with the Vietnamese, and even though they are going to be spread all over the United States pretty evenly now, if they are like other aliens who have come to this country they will tend to concentrate in certain places, which could throw off the percentages in those counties.

There are better than 4 million lawful permanent aliens who do not have the right to vote added to illegal aliens could make the total between 15 and 20 million, so we are talking about a large number of people all over the Nation whom we need to exclude from the count in the triggering areas, so I urge support for the amendment.

Mr. EDWARDS of California. Mr. Chairman, I rise in opposition to the amendment.

I think we ought to point out, Mr. Chairman, that the use of a nationwide triggering device is to reach areas of the country where there are evidences of discrimination in voting. The purpose of the triggering device is to make the bill work in a fair and rational way.

The gentleman from Illinois (Mr. McCLORY) proposes to have these determinations based on the voting age citizen population. This should be defeated. The trigger in the original 1965 Voting Rights Act was held rational and reasonable, by the Supreme Court in South Carolina against Katzenbach. If we tried to change this now, we would be using a different standard for coverage of new jurisdictions in titles II and III than was used for those already covered.

I have a letter from the Census Bureau dated June 3, 1975, saying it is impossible to go back and make 1964 determinations based on whether or not people were citizens.

Further, the Justice Department in a communication dated May 29, 1975, indicated that they would oppose any attempt to require that the 1964 and 1968 determinations be redone and reapplied retroactively.

So I suggest it would be inappropriate to make the triggering mechanism different, to have the new act coverage different from those in the old act.

Both titles II and III of this bill already feature a citizenship factor in the 5 percent population standard for coverage of language minorities.

Mr. Chairman, I strongly urge the defeat of this amendment.

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

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

Mr. McCLORY. Mr. Chairman, I want to agree with the gentleman as far as the original act is concerned; but it seems to me when focusing on the problem of discrimination against blacks we were not considering persons who might not be citizens, because there are very, very few black aliens; but when we are talking about language minority groups, we are necessarily talking about a vast number of illegal aliens.

Mr. EDWARDS of California. Mr. Chairman, I hope the gentleman does not think that the Census Bureau can count illegal aliens. I do not think they would answer a questionnaire let alone answer the door.

Mr. McCLORY. I understand the Census Bureau does have the information currently with regard to illegal aliens.

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

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

Mr. KAZEN. Mr. Chairman, we are not talking about illegal aliens It is registered aliens that the Census Bureau already counts, because every single alien resident is registered every day; so what problem would that create for the Census Bureau? They already have that information and they know exactly where these people are.

Mr. EDWARDS of California. Mr. Chairman, that is still not the problem. The chief problem is the trigger is designed in a way that it hits those particular parts of the country in which we have evidence of discrimination.

Mr. KAZEN. It is done this way when the triggering device is not working.

Mr. EDWARDS of California. It is an indication where the violation of voting rights very probably took place. It is not evidence.

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

Mr. EDWARDS of California. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, I would like to make reference to the fact that the gentleman said that in 1965 the process worked and there is no reason for it to change now. That would be sound if we had not been in the position to obtain some additional information. In the last few years more attention has been focused on the illegal alien problem. We have from 6 million to 10 million such people; but even more important, and I will produce evidence this afternoon on that, we have illegal aliens registered and there are reports from the Immigration Service where we have illegal aliens registered, and, indeed, voting. Election boards throughout the country have made this available and these illegal aliens do this to further enhance their legitimacy as citizens. It is an important factor and something that should be taken into consideration.

Title 11 of the Voting Rights Act of 1975 has a specific provisions which states that anyone providing false information about their being able to vote shall be fined not less than $10,000 and/or imprisoned for up to 5 years. Specific citation is United States Code 1973 Title 42 1(c)(d).

The argument might be raised that while the Federal enforcement is important in the overall matter of voter registration, they are only involved in cases of false voting in Federal elections. Granted this is true, and the States must also assume responsibilities in this area. The fact is that most States in the union also specifically prohibit attempting to register and vote when not qualified, but they too have become lax in their enforcement of these statutes.

I have stated earlier that there are increasing incidences of false voter registration. While documented cases and even ballpark figures of the extent of this problem are hard to come by. I have obtained a copy of a 1973 report compiled by Immigration Service office in New cases of illegal aliens obtaining voter Registration Fraud—West Indian Aliens." This report showed some 20 cases of illegal alients obtaining voter cards fraudulently and then using them to verify claims of legal U.S. citizenship.

Allow me to cite one specific case. Subject: Clarence Meyers, native and citizen of Jamaica entered the United States at John F. Kennedy Airport on February 20, 1970. When located and processed at the New York City District Office of INS on May 8, 1973, an election card issued at Bronx County, N.Y., was found in his possession. Mr. Meyers stated that he had never been in the Bronx since his arrival in the United States 3 years previous. He further advised that he had purchased the New York City voter registration card for the sum of $100 in a social club in Kings County, N.Y.

This is but one of a series of cases. Related closely to false voter registration by individuals are organized rings of illegal alien smugglers who obtain these cards and provide them to the illegal aliens they bring it to facilitate their entry into the United States. I am also conducting an inquiry into a conspiracy in New York to falsely get illegal aliens to vote to influence the outcome of close elections.

It is ironic that as we consider legislation which seeks to break down the barriers against voting by American citizens we find illegal aliens with few if any barriers before them for voter registration and actual voting. We must obtain a specific plan from the Justice Department which will demonstrate to the American people that we are committed to eliminating this national scandal. In an era when sentiments in many States including New York are for new forms of voter registration by mail, we must work to enforce existing State and Federal laws against false registration before the practice and abuses become uncontrolled.

Mr. Chairman, I believe the amendment is sound and should be voted for.

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

(By unanimous consent, Mr. EDWARDS of California was allowed to proceed for an additional 3 minutes.)

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

Mr. EDWARDS of California. Mr. Chairman, I yield to the gentleman from Hawaii (Mr. MATSUNAGA).

Mr. MATSUNAGA. Mr. Chairman, I rise in support of H.R. 6219; however, there are certain questions which I would like to have answered relative to title II, as well as title III.

I would like for the purpose of establishing legislative history to engage in colloquy with the gentleman from California, the distinguished chairman of the subcommittee, Mr. EDWARDS.

To begin with, in both titles II and III of H.R. 6219 coverage depends on their servicing the voting age population who are members of single language minority

groups. Although the bill defines minority, the term "single language minority" is not defined.

What is the meaning of "single language minority"? Does it mean, for instance, that the minority must have a common single language?

Mr. Chairman, I ask unanimous consent that I may revise and extend my remarks.

The CHAIRMAN. Is there objection to the request of the gentleman from Hawaii?

Mr. McCLORY. Mr. Chairman, reserving the right to object to the unanimous consent request, I think that it is appropriate that the committee hear the debate on this subject. If we are making legislative history with respect to some matter that is not actually orally debated on the floor of the House, it seems to me that it is not going to be worth much to the Supreme Court or any other body that is going to interpret what we are doing here today.

I do not want any secret, unwritten history with regard to the extension of the Voting Rights Act. I want to know what we are doing.

The CHAIRMAN. The gentleman from Illinois reserves the right to object to the unanimous consent request of the gentleman from Hawaii to revise and extend his remarks, and makes the point that there should be debate on that subject rather than extension to achieve a legislative history.

Mr. MATSUNAGA. Mr. Chairman, I ask unanimous consent that I may proceed for 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

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

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

Mr. EDWARDS of California. Mr. Chairman, a language minority group is defined in the bill as Asian Americans, Alaskan natives, American Indians, or persons of Spanish heritage. The modifier "single" is used to prevent, for example, Asian American and American Indian populations in a jurisdiction to be added together to meet the 3-percent coverage standard.

Mr. MATSUNAGA. So the "single language minority" referred to in the bill need not speak a single, common language?

Mr. EDWARDS of California. That is correct.

Mr. MATSUNAGA. And, as the gentleman knows, there are a great number of national origins represented in Hawaii that could be classified as Asian Americans. Will each of them be covered under H.R. 6219?

Mr. EDWARDS of California. No. Based on usage by the Bureau of Census, Asian Americans means those persons who identified themselves as Japanese, Chinese, Filipino and Korean. H.R. 6219, which addresses language difficulties of minority citizens, does not include persons who identify themselves as Hawaiians within the Asian American category, because it is our understanding that the Hawaiian language is hardly spoken.

Mr. MATSUNAGA. Mr. Chairman, I might say to the gentleman that while the Hawaiian language is hardly spoken, it is still being spoken and there has been a revival of the language in recent years.

To continue with the colloquy, I note that, if a jurisdiction is covered under title II, the bill mandates that bilingual election materials be provided "in the language of the applicable language minority group." I cannot speak for the other groups, but in the case of Asian Americans, there is certainly no single language common to all Asian Americans. Does this mean that bilingual materials must be provided in each of the languages of the subgroups which constitute the language minority group?

Mr. EDWARDS of California. As the gentleman has suggested, the mandate for printed bilingual materials will impact differently on each language minority group. Since each of the subgroups within Spanish heritage have Spanish as their native language, a jurisdiction covered for any of these groups would have to provide materials in English and Spanish. Most of the Alaskan Native and American Indian languages have no written form, and, therefore, we have indicated that jurisdictions covered by respect of their populations of these language minority groups have an affirmative obligation to provide bilingual oral assistance at all stages of the electoral process.

Mr. MATSUNAGA. In an area like Honolulu, where each of the four groups within the census usage of the term Asian American is present, what will be required of a jurisdiction to comply with the bilingual materials mandate?

Mr. EDWARDS of California. In making determinations under title II, the populations of any subgroups within a language minority group are aggregated. If this aggregate represents 5 percent or more of the jurisdiction's voting age citizen population, the jurisdiction is covered. It is then required to provide bilingual materials for each of the subgroups. In certain cases, this could, of course, require materials in each subgroup language within the Asian American category.

Mr. MATSUNAGA. If a jurisdiction like Honolulu were covered and required to print materials in languages appropriate to all four subgroups of Asian American, could that jurisdiction be relieved of that requirement for one or two subgroups, or must it "bail out" for all subgroups at one and the same time?

Mr. EDWARDS of California. If the gentleman will yield, it is the intent of H.R. 6219 that a jurisdiction may be exempted from title II's bilingual elections mandate for any subgroup language minority population. If, for example, Honolulu is covered under title II because of its Asian American population of Japanese, Chinese, and Filipino, the country could seek to bail out each one of these subgroups.

Mr. McCLORY. Mr. Chairman, will the gentleman yield to me on that point?

Mr. MATSUNAGA. I will yield to the gentleman as soon as the gentleman has finished.

The CHAIRMAN. The Chair will state that the committee is now operating under the prior reservation of objection of the gentleman from Illinois. The time of the gentleman from Hawaii has expired.

Mr. McCLORY. Mr. Chairman, further reserving the right to object, I would like to ask the gentleman where in the legislation is there provision for this bailout with regard to the subgroups of a single-language minority group such as Asian Americans? Will the gentleman point that out in the bill?

Mr. EDWARDS of California. The same bailout provisions would apply to the subgroup as would apply to any group.

Mr. MATSUNAGA. If the gentleman will yield, the fact that the term "single-language minority" is used, although not defined, would seem to permit such a bailout.

Mr. McCLORY. Single "language minority groups" includes "Asian Americans." So either the Asian Americans are blanketed in or they are blanketed out. You cannot blanket in the Asian Americans and refuse to provide ballots in the four or five languages of the citizens composing the language minority group. The legislation does not provide that.

I would suggest that such an amendment ought to be offered if that is the intent of the Congress, and not try to build into the legislation during a colloquy here something that is not in the bill.

Mr. MATSUNAGA. If the gentleman will yield further, the reason for the colloquy, which I requested of the chairman of the subcommittee, is based on the very question that the gentleman raises. And it is my understanding now, after having discussed this matter with the chairman of the subcommittee, that by the use of the term "single-language minority," we develop a subgroup within the term "Asian Americans."

Mr. McCLORY. Let me point out that I am not going to agree that we are making legislative history through a colloquy which is inconsistent with the language of the legislation. The bill provides a definition of a "single-language minority group," and it also provides the method by which there can be a bailout, if in fact the ballots and the voting material in 1972 were provided in the language of the minority group. But if it is not provided, it is almost impossible to bail out for 10 years, as I see it.

Also, there is nothing in the bill that says if you give printed ballots to persons who do not have a written language, such as Hawaiians who may not know their written language but nevertheless speak it, there is nothing in the legislation that says that is going to meet the requirement of the act. I do not think we should interpret the legislation inconsistent with the way it is written.

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

Mr. McCLORY. I will be glad to yield to the gentleman from Virginia.

Mr. BUTLER. I thank the gentleman for yielding.

I would like to suggest that the legislative history we are making at the moment is somewhat news to me, who sat on the subcommittee during deliberations, and I strongly suspect that we are not making legislative history. Nothing in the hearings or nothing in our deliberations

would indicate the extensive trouble we have here today.

Mr. MATSUNAGA. Mr. Chairman, will the gentleman yield further?

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

Mr. MATSUNAGA. Mr. Chairman, the purpose of establishing legislative history is in one instance a clarification of language which is not clear in the bill itself, and because the term, "single-language minority," is used and not defined and as "language minority" is defined in the bill, I have risen to clarify the issue along the thoughts that the gentleman from California and I have discussed.

The CHAIRMAN. The Chair desires to state that this is an unusual procedure to continue with colloquy under the reservation of objection during the 5-minute rule. The gentleman who last had the floor in his own right was the chairman of the subcommittee, the gentleman from California (Mr. EDWARDS).

If the chairman of the subcommittee desires to continue this discussion, the Chair would recommend that the gentleman ask unanimous consent to proceed for some additional time.

Mr. EDWARDS of California. Mr. Chairman, I ask unanimous consent that I may be allowed to proceed for an additional 30 seconds so that we may finish this discussion.

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

Mr. McCLORY. Mr. Chairman, reserving the right to object, I would only say this: I am anxious to have the colloquy continue because whatever exchange the parties are having between themselves I think should be heard by the whole House.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. It would seem to the Chair that it would be advisable for the chairman of the subcommittee, the gentleman from California (Mr. EDWARDS), to seek more time than 30 seconds.

Mr. EDWARDS of California. Mr. Chairman, I ask unanimous consent that I may be allowed to proceed for 1 minute.

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

There was no objection.

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

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

Mr. MATSUNAGA. Mr. Chairman, if I may, I will proceed with the colloquy.

If these types of showings can be made so that the use of English-only elections would not discriminatorily impact on citizens of Japanese and Chinese ancestry in Honolulu, then the city and county of Honolulu would not be required to provide bilingual materials for these two subgroupings; am I correct in my understanding?

Mr. EDWARDS of California. The gentleman is correct. Of course, a jurisdiction may choose to bail out for any or all of the subgroups which constitute the language minority group that triggered coverage.

Mr. MATSUNAGA. Mr. Chairman, I thank the distinguished gentleman for his clarifying responses.

Mr. EDWARDS of California. Mr. Chairman, I thank the gentleman from Hawaii, and I point out to the gentleman from Illinois (Mr. McCLORY) that the provision for bail-out is on page 2 of the bill, beginning at about line 19, and under my interpretation and that of the staff, that would certainly include subgroups.

The CHAIRMAN. The time of the gentleman from California (Mr. EDWARDS) has expired.

The unanimous consent request of the gentleman from Hawaii (Mr. MATSUNAGA) is still pending. His unanimous consent request was to revise and extend his remarks.

Is there objection to the request of the gentleman from Hawaii?

There was no objection.

Mr. KINDNESS. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, it seems that there will be two sides to this two-way colloquy, or another side to the colloquy we have just heard, and for the purpose of clarifying a bit this matter of single-language minorities, I think it would be important to engage the chairman of the subcommittee, if I might, in colloquy and obtain his responses to a couple of questions.

The first question is that: A single-language minority, as set forth in the bill, would be the Asian American grouping? That would be a single-language minority?

Mr. EDWARDS of California. That is correct. Mr. Chairman, if the gentleman will yield further, that would be the Asian American group consisting of a number of people from different countries.

Mr. KINDNESS. And within that grouping would there be a possibility of having a single-language minority that is smaller or more distinctly set forth, for example, Japanese Americans?

Mr. EDWARDS of California. There could be within the group of 5 percent Asian American, 2 percent Japanese, 1 percent Korean, and 3 percent Chinese, yes.

Mr. KINDNESS. And if that were to be the case, then would it be possible for any one of those language minority groupings within the Asian American grouping to be the subject of an inquiry—a bail-out let us call it—as distinguished from the rest of the Asian American grouping?

Mr. EDWARDS of California. That is correct, yes.

Mr. KINDNESS. Then would it be correct to say that "single-language minority" means two things:

It means, on the one hand, the groupings that are specifically included in the definition in the bill, and on the other hand, it also means a subgrouping; it means two things; is that the intent of the chairman of the subcommittee?

Mr. EDWARDS of California. Would the gentleman repeat the question?

Mr. KINDNESS. Yes. I would like to rephrase it so that I understand it better myself.

There seems to arise from the colloquy here so far the answer from the chairman of the subcommittee that "single language minority" can mean two things. On the one hand, it can mean one of the groupings in the definition, for example: Asian Americans. On the other hand, it can also mean a smaller grouping within that grouping such as: Japanese Americans; there can be a subgroup?

Mr. EDWARDS of California. Yes.

Mr. KINDNESS. Does the chairman of the subcommitte, the gentleman from California, indicate that both of those definitions of single language minority may be applicable for the triggering device?

Mr. EDWARDS of California. Yes.

Mr. KINDNESS. Is it also possible that we distinguish, that we include the smaller grouping such as Japanese-American for the purpose of a bail-out action?

Mr. EDWARDS of California. It is possible for a subgroup to have a bail-out device available.

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

Mr. KINDNESS. Yes, I will yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, there is no right, under this legislation, for any group to bail out. The only authority here is for the State or political subdivision to bailout, and they can only bail-out if they are in compliance with title II, which would require them to have had in the election of November, 1972, ballots and voting materials provided in the language of the applicable minority language group.

The bill, on page 7, defines "language minorities" and "language minority group" and does not include Japanese Americans or Chinese Americans or Korean Americans or Philippine Americans as such. It applies only to Asian-Americans, and it includes all of these people in one group.

It seems to me that it is clear from the legislation itself as to what would be required where you have a language minority group over 5 percent under title II. Then, and in that case, we are going to have to provide the ballots and voting materials in the languages that makeup the language minority group. That might be four or five languages.

There is nothing in this bill that talks about subgroups. They cannot bailout—only States and political subdivisions can bailout—and then—only when it is established that the requirements of title II have been met—as impossible as that may be.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, yesterday my colleague, the gentleman from California, and myself had quite a colloquy about the problem of increased cost for the Census Bureau. I am surprised that he is now resisting this amendment, which is much more definitive and helpful to the Census Bureau, because they do, in fact, count the citizens of this country. They do make that kind of count.

All my colleague, the gentleman from Illinois (Mr. McCLORY), is trying to do

is say that the language under this section, where we mandate the Census Bureau to provide an accountability of citizens of voting age. I am especially surprised at my colleagues objection and opposition since the gentleman knows the kind of problem that we have with illegal aliens in this country, especially in California.

Mr. Chairman, the gentleman from Illinois has given us a very appropriate and currently needed amendment to make sure that we do not improperly mandate the Census Bureau, under this language to count persons, who should not be considered in the triggering mechanism.

I believe that my colleague, the gentleman from Illinois, has tried to be very considerate of the very arguments that my colleague, the gentleman from California, raised yesterday relating to the Wiggins amendment, and that was his concern over the substantial cost for the kind of count with which we are here concerned.

I have read the letter of the Director of the Census Bureau sent to my colleague. The director is mandated under the language of this particular section and my colleague from Illinois is trying to amend the bill in a proper fashion. He says that the kind of surveys that are mandated in this legislation could run anywhere from $50 million to $200 million.

I say to my colleagues that if we do not accept the amendment offered by my colleague, the gentleman from Illinois (Mr. McCLORY) we will in fact be mandating an almost impossible task for the Bureau of the Census, because they will be required to count persons rather than citizens of voting age.

I think that my colleague, the gentleman from Illinois, has been very proper in trying to correct what appears to be a defect in this particular section.

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

Mr. ROUSSELOT. I will be happy to yield to my colleague, the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the problem that we get into is whether or not the Bureau of the Census can do what the gentleman would like them to do.

Mr. ROUSSELOT. Under the amendment it is our judgment that the Director will have a more specific mandate.

How are they going to count persons? To me it is much more appropriate to count citizens on the basis of the estimates they already have under the 1970 census, and/or regular surveys that they do on a month-to-month basis, and in many of the populated areas of our country they are already doing economic surveys.

I believe that the amendment offered by my colleague, the gentleman from Illinois (Mr. McCLORY) to change the wording of a "counting of persons" to a "count of citizens" of voting age is a more appropriate and prudent approach to this problem.

Mr. CONYERS. Mr. Chairman, I am not trying to get into the substantive differences, but I would like to point out to my colleague in the well, the gentleman from California, that the question is the same as the one we were presented with yesterday. The gentleman was asking the Bureau of the Census to do something that the chairman of the subcommittee has a letter in his possession in which they say it is impossible to do.

Mr. ROUSSELOT. No.

Mr. CONYERS. Is that not correct?

Mr. ROUSSELOT. No. I am on the Census and Statistics Subcommittee of the Committee on Post Office and Civil Service. I do not beware that is the the case.

Mr. CONYERS. In that letter they say it is impossible.

Mr. ROUSSELOT. We have been told by the Bureau of the Census people when they have testified that they already engage in many kinds of surveys, and, especially in the regular census, to make a determination of those that are citizens or non-citizens, so they already have estimates in this regard.

But in many of the ongoing surveys there is a requirement that they make a determination before they do the in-depth interviews, as to whether a person is a citizen or not a citizen. So this would not be an unusual requirement.

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

Mr. ROUSSELOT. I would be glad to yield to my colleague, the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Chairman, I want to make this point.

The gentleman knows that we are talking about voting and voting rights, and voting rights pertain only to those qualifications which relate to voting, and citizenship is a prerequisite of voting and so to count persons who are not citizens would be quite inconsistent, in my opinion, to our attempt here.

Mr. ROUSSELOT. The gentleman from Illinois is correct. The gentleman made that point, and made that point in a strong way. What I am saying is that the argument made that the Bureau of the Census is incapable of determining the difference between a citizen and a non-citizen is not a valid argument the Bureau is already required to do that in many of the regular surveys that they do, and what I was trying to point out is that since my colleague, the gentleman from California (Mr. EDWARDS) made a big issue regarding the substantial cost of the potential mandates to the Bureau of the Census, I would think the gentleman would readily accept this amendment because it would narrow down the mandate to the Bureau of the Census. The Bureau should not require that they count "persons."

The CHAIRMAN. The time of the gentleman has expired.

Mr. BADILLO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

What we have sought to do here in putting in title II and title III is to keep the same basic mechanism that existed in the current act, under the provisions of the 1965 act, which would include persons of voting age. The Bureau of the Census is not required, with respect to that provision, in the case of title II and title III, to do anything other than that which it does now. Therefore, there is no additional cost involved with respect to the denominator of the formula, that is, the 50 percent of persons of voting age who voted in 1972.

The part where the Census Bureau is required to conduct a special census, if this bill were to be approved as it stands, would be on the question of determining the 5 percent of a special language minority group, and with respect to that 5 percent, we do provide in the bill that they shall be citizens of voting age, so that the only special census that is required here is that 5 percent. The Census Bureau, if the bill is passed, will be conducting that figure. The denominator figure, the 50 percent, is based on the 1970 census as updated to the 1972 elections. There is no special census required there because that already took place. That was in 1972. We are now in 1975, so no special census is required.

What we need to know is what will happen when the bill becomes effective. That only requires 5 percent of a single language minority. That is the only census that actually will be taken in the field. That is the only census that can be taken in the field.

When it comes to taking action which is required by the Bureau of the Census, we are talking about citizens, and for that reason we have worded the amendment in the manner in which we have, and for that reason I think that we should leave the trigger mechanism, that is, the denominator, based on the same formula that we have historically used from 1965 to 1970, on which, as the chairman indicated, there have been Supreme Court decisions which have established what that denominator means.

If we are going to make a change, obviously, we should talk about citizens when the Census Bureau goes out to count in 1975 and 1976 to determine if a 5 percent single language minority is included. Whether it is in Honolulu or New York City or Texas, they will be counting citizens and, therefore, for that reason I submit that the amendment should be defeated.

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

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

Mr. McCLORY. I thank the gentleman for yielding.

The gentleman has made a very good point as far as the 5 percent is concerned. With regard to existing law where "persons" is used, I would not want to change that. Although perhaps we should have used "citizens" when we enacted the 1965 Act. In considering voting rights we only consider those who are entitled to vote, which means citizens. I think the mere fact that we do count the 5 percent of "citizens" in minority groups for purposes of the trigger also establishes the validity of using the expression "citizens" when we talk about the percentage of persons of voting age who vote.

Mr. BADILLO. We have no disagreement. I only point out that people talk

about the Census Bureau having to go out to count. They are not going to go out and count who was there in 1972; they are going to count now the only people in terms of who is there now. The only thing we count is the numerator. Let me say illegal aliens are not counted. I have been trying to find out who the illegal aliens are from the Bureau of the Census, and I cannot get the information. It is not possible one million people in New York City would be illegal aliens because that is one-eighth of the population. If we find out from the Census Bureau who they are, and if we can get those lists, I think the Members who have the lists would be contributing a great service to the country.

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

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

Mr. KAZEN. I thank the gentleman for yielding.

Forget illegal aliens; talk about resident aliens who register every single year. The Census Bureau knows where they are, and they know where they live.

Mr. BADILLO. I understand, and I point out to the gentleman if this bill is to be approved, when the Census Bureau goes out to count, let us say, in his district to find out if the 5 percent applies, they will count the 5-percent citizens—and that is all.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, at the request of Mr. BIAGGI, Mr. BADILLO was allowed to proceed for 1 additional minute.)

Mr. KAZEN. If the gentleman will just let me continue on this one point, they will know what the census was in every year the gentleman is talking about because this registration law has been on the books for many years and the Census Bureau has this information.

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

Mr. BADILLO. I yield to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Chairman, I would like to suggest to the gentleman in the well that he knows of my interest in the illegal alien question. We are having hearings and we will provide the gentleman with all the evidence. We have information from the officials who testified to that.

Mr. BADILLO. I think we would be grateful if the gentleman would provide it to every Member in the Congress.

Mr. BIAGGI. I would be delighted to provide the entire Congress with that information and the sad commentary on the investigatory abilities made in this connection.

Mr. QUIE. Mr. Chairman, I move to strike the last word.

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

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

Mr. McCLORY. Mr. Chairman, I want to point out my amendment covers not only title II but also title IV. It would cover the censuses which are going to be made every 2 years from 1974 on, so that we would be requiring the Census Bureau to count persons of voting age—and not citizens from 1974 to 1984, unless this amendment is adopted.

Mr. QUIE. Mr. Chairman, as the gentleman from Illinois indicated, the amendment goes to two parts of the bill. In the title II it seems to me the questions would be: First, should we change the law from the way it was written in 1965, and second, does the Census Bureau have the information or will it cost them additional money to provide that information?

As the gentleman from California has indicated, the Census Bureau has that information. In each decennial census they go out and ask whether or not each person was born abroad. If the answer to that question is yes, then they ask whether one is alien, naturalized or born of naturalized parents. They compute it and the information is available by county.

In 1965 when we passed this legislation, the illegal alien was not a hot question in the country. We did not realize the numbers involved. I have heard the estimate that it is as high as 15 million persons. The estimate by the INS is that about 2.5 million illegal aliens a year come into this country. So it is necessary to change the law of 1965 in this regard also because of new information.

As I said earlier, aliens tend after they come here to congregate together. They like the association with the other individuals who speak the same language and are of the same culture. It is natural for human beings to do that. As has been noted in the recent past, from the Southeastern part of the Nation a number of people from one county in Mississippi tended to go to the same place in the North when they moved north. They liked the association with their friends and relatives. The immigrants who came here from Latvia and Estonia and Lithuania and Hungary each tended to congregate in specific areas, and that throws off the figures in those parts of the Nation for the trigger mechanism since we should only be concerned about those eligible to vote rather than noneligible individuals by Federal standards.

As Commissioner Chapman estimated in one hearing, there are about 1 million illegal aliens in New York City.

Whether we use information on citizens of voting age or on all persons of voting age could result in a dramatic difference in some areas. Since we are writing legislation today we ought to try to make it as exact as possible, and since the information is available from the Census Bureau we ought to use that. There is a reason as you can see for changing from what we had in 1965.

As the gentleman from Illinois indicated under title IV of the bill, on page 11 we are talking about a new responsibility for the Census Bureau. It says the Director of the Census is directed by the Congress forthwith to conduct a survey and compile information on registration and voting statistics in every State or political subdivision coming under this law.

The last sentence of section (a) says that:

> Such surveys shall only include a count of persons of voting age by race or color, and national origin.

That limitation on it, it seems to me, gives them the wrong information. It ought to be, as the amendment offered by the gentleman from Illinois specifies, that the surveys shall only include a count of the citizens of voting age by race, color, and national origin.

There is no way we can ever through this law permit the noncitizen to vote. Therefore, it seems to me these amendments are wise. They do not hurt the legislation at all and ought to be adopted. In this way the Attorney General and the Director of the Census will be required to count only citizens in determining registration and voting percentages.

It would be a most unjust imposition on the States to bring the force of the Voting Rights Act to bear on them when the reason a minority group is disenfranchised is that its members are illegal aliens, resident aliens or unnaturalized persons. It would be a tremendous dilution of the Federal Government's resources should it have to direct its energies in many jurisdictions which merely have a large body of noncitizens.

I urge my colleagues to approve this amendment.

Mrs. MINK. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the amendment.

Mr. Chairman, it is very difficult to speak in opposition to the distinguished chairman of the subcommittee of the Committee on the Judiciary, but I feel very strongly that it is the responsibility of the House in its work on legislation to report legislation which is internally consistent.

It seems to me that if we are addressing ourselves to legislation that is designed to encourage people to vote and if we are going to impose Federal requirements on those districts that do not meet certain criteria, that the criteria used should be based on those eligible to vote. This is the basis for my support of the amendment of the gentleman from Illinois (Mr. McCLORY).

I would like to suggest that the amendment offered by the gentleman from Illinois does not depart that radically from the bill reported to this House, because as I pointed out earlier in my colloquy, that on page 5, the bill provides that in defining the triggering device that "more than 5 percent of the citizens of voting age residing in such State or political subdivision are members of a single language minority."

So in determining the criteria of whether the provision is to apply to a single language minority, the bill says you must use the criteria of "citizens" of that group. In this instance the bill does not count all persons of that group. So it seems to me that the bill already has made this very change which we seek to make here. Despite what the chairman of

the committee says and what the gentleman from New York says, to wit, that the criteria of title II is sacrosanct and that because the law has been in effect since 1965 we should not change the criteria that has been in effect and which the courts have interpreted over a period of 10 years, may I remind these two gentlemen that this bill amends this very "sacrosanct" title II by changing the definition of "test or device" which new definition is made applicable only for the new bill. The committee in reporting this bill changed the criteria of the Voting Rights Act of 1965 by redefining "test or device," for the purpose of "bailing-out" through a Court review.

The city and county of Honolulu have always been triggered under title II of the Voting Rights Act since its inception; but we always found it was a rather innocuous requirement, because we obviously do not discriminate and the bailout process was automatic. We did not have to go to court, then, and we should not have to now.

Under the new criteria set forth on page 5 of this bill, I believe it would be virtually impossible for the city and county of Honolulu to go to court and bail out. It would be very difficult. The effect of it would mean that we would have to have a bilingual ballot for Asian Americans, but as has been pointed out, there is no such thing as an "Asian American" language. There are Asian American groups in the country and there are four distinct Asian American groups in my constituency that would meet the 5-percent criteria: the Japanese, Chinese, Koreans, and Filipinos. So we would have to have a ballot in five languages because of the triggering mechanism under title II. We are perfectly willing to live under the provisions of title III on the basis that if there are large groups of citizens who are not able to read English, then I believe they are entitled to bilingual ballots. Under title III the whole State of Hawaii would likely be covered and we would most likely have to have a bilingual ballot for the Filipino and the Korean people who are U.S. citizens. Those who are not versed in English should have every possible assistance from the State and Federal Government to make it possible for them to vote.

But why should we be put under the onerous provisions of title II? We are the only area, I dare say, that will have to have a five language ballot because of the triggering mechanism simply because aliens in our community are counted in determining the voting age population.

I am not talking about illegal aliens. I am talking about legal alien residents of the State of Hawaii numbering 37,000 of voting age, just in the city of Honolulu.

We compound that problem. If there are those who think I am being parochial, we compound that problem, because we had over 73,000 military dependents over the age of 18 and military servicemen in the city and county of Honolulu in 1972 who did not participate in our local elections, yet they were counted in determining our voting age population.

I am not asking this House to exclude these individuals from the count; we feel that we have to deal with that added difficulty. We must take a rational approach to this legislation and seek the imposition of Federal intervention in our election process in those areas that are meaningful. For people who are eligible to vote but for some reason are not able to vote because they cannot read the ballot, then for heaven's sake, help them. I believe title III does this, and I hope the amendment will be agreed to.

Mr. TALCOTT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask a question of the gentleman from California, the chairman of the subcommittee (Mr. EDWARDS) to further clarify the definition of language minority groups and the possible subgroups. I would like to ask him several specific questions about the ballot requirements.

I happen to represent a district where I am advised there are probably more than 5-percent Asian Americans. Among them are Chinese, Japanese, Filipino, and probably some others. Actually, the Filipinos speak two or three different dialects. Some of them cannot speak to each other, and the same situation applies to the Chinese. They have at least two dialects in our district.

My question specifically is, would it be required to have two Chinese ballots, one for each dialect, so that they can really read what is on the ballot?

Mr. EDWARDS of California. Mr. Chairman, if the gentleman will yield, I will say that it is our information that the gentleman would require one Chinese written ballot, unless the bailout was instituted by the county to eliminate that requirement.

Mr. TALCOTT. How would we determine which dialect of Chinese is going to be on the ballot?

Mr. EDWARDS of California, It is our understanding that it is the one that is generally used.

Mr. TALCOTT. What about the Philippine dialects? Would the answer be the same? There is only going to be one Philippine dialect on the written ballot?

Mr. EDWARDS of California. It is our understanding that it is the one generally used in the Philippine language.

Mr. TALCOTT. So that there would be no more than one Chinese ballot, no more than one Filipino ballot, no more than one Japanese ballot under the Asian American definition?

Mr. EDWARDS of California. That is correct, and even those subgroups would not be necessary if there was a successful bailout.

Mr. TALCOTT. It is my understanding that there can be no bailout by a language minority group, that they are not the people, or they are not the entity, that bails out, so to speak. The escape clause is exercised by the municipal subdivision involved. Is that not correct?

Mr. EDWARDS of California. Yes, the county, in the gentleman's case, would file the action.

Mr. TALCOTT. They are, in fact, prohibited from filing an action because the requirements are based on the 1972 election, which has already occurred, and there were no multiple ballots used in that election, so there is no way for them to escape, or bail out. Am I not correct?

Mr. EDWARDS of California. No, the bailout relates to the previous 10 years procedure in title II, and in title III to literacy.

Mr. TALCOTT. I do not quite understand that, but in either case the county would not have grounds for using the escape clause.

Mr. EDWARDS of California. I want to emphasize the bailout machinery would be available for both title II and title III.

Mr. TALCOTT. Upon what would the bailout procedure be based—to show that they had used multiple ballots in 1972? If so, that is not available to any California county.

Mr. EDWARDS of California. On the bailout, it would not be necessary to show that bilingual materials were used in 1972. The gentleman would have to prove that the use of English on the election did not discriminate against language minorities.

Mr. TALCOTT. Would not that mean that if there is any language minority that spoke or wrote in its own language, we could not escape or bailout? If that is the case, it would be impossible because there certainly are some Chinese, Japanese, Filipinos and Spanish who could not use the English language, so that bailout procedure would not be available.

Mr. EDWARDS of California. The bailout would be successful if it can be shown that these language minorities have a high literacy rate in English or a high degree of voting participation.

Mr. TALCOTT. But that would be almost impossible, would it not, in any jurisdiction in the United States? I think the literacy rate of the Japanese, Chinese, Filipino, and Spanish in our area is as high as any, but I do not think we can meet that criteria.

Mr. EDWARDS of Califoria. Some will meet the criteria and some will not, but we have a well designed bailout device, and I trust that the people in Monterey County will use it.

Mr. McCLORY. If the gentleman will yield to me on that point, I would just like to say that the testing device which is injected in this bill for failure to have a ballot in the language of the minority group is virtually the same testing device we had in the 1965 act, having a literacy test with respect to voting in States which were covered. So the gentleman is perfectly right that you cannot possibly bail out from this legislation if you had any substantial inconsistency that they did not understand the English language.

Mr. TALCOTT. I thank the gentleman for this clarification. It would be easy to interpret this legislation differently.

I am disturbed by this bill, particularly some of the new provisions—which I consider unnecessary, expensive, burdensome, punitive, and discriminatory.

I voting for the Voting Right Act of 1965 and for the extension of the Voting Rights Act in 1970—and I did so enthusiastically. I did so in spite of my home

county of Monterey in California being covered.

I did so because I believed then and I believe now that voting is the highest privilege of citizenship and that every adult citizen must have the opportunity to exercise that privilege freely and without any discrimination because of any condition over which he has no control. I also believe every citizen should have the prerogative of not voting if he so chooses.

There are and should be other limitations on voting. Voting is a function of citizenship; it should be voluntary and secret.

But there are and should be some responsibilities connected with voting. English is the official language of the United States. There should be only one official language. A nation and community function better and more efficiently with one language than with two or more. The problems which are chronic and pervasive and divisive in the Netherlands, Canada, and the Philippines and other bilingual places should be sufficient warning to us.

Bilingual voting will be just the beginning of bilingual problems in other aspects of official, governmental, social and business life.

Bilingual or multilingual fluency would be useful to anyone, I suppose, but our official language is English and every citizen ought to be required to learn it and use it officially. Most everyone who comes to this country expects to converse in English.

Most immigrants to this country have learned to communicate in English. Most immigrants are proud of their new country and their new language. It is perfectly proper to preserve their national customs, culture and language but it should be expected that when aliens immigrate to this country that they adopt the customs and culture of this country including language.

Under the provisions of this bill, if a State; city, county or political district has more than 5 percent of a language or racial minority and less than 50 percent voted in the 1972 election, it is covered by the act.

A governmental subdivision can get out from under only by extended, onerous, and expensive litigation. It is impossible to escape from the provisions of this act.

As I said, my county of Monterey was covered by the 1970 act although, to my knowledge, and I believe I would know or be told, there has been no voting rights discrimination in Monterey County.

On the contrary, the racial and language minorities take pride in voting and participation in all forms of community activities. They are proud Americans and one reason they can take so much pride and one reason they have been so successful in our county is that they have assumed the responsibilities of citizenship, including the learning of the English language.

I am convinced that the language and racial minorities in our congressional district would oppose this proposal for themselves and for their children. They came to America to be Americans; they want to be good Americans in every sense of the word. They can be proud of their ancestry and native customs but they expect and want to adopt the customs and language of America.

Monterey County was covered by the 1970 act because less than 50 percent of the voting age population voted in the 1968 election. The census computation of the "voting age population"—taken during the peak harvest and tourist season—included thousands of persons stationed at eight military installations—most of whom voted elsewhere—thousands of inmates in two State prisons—none of whom voted anywhere—thousands of migrant farm workers and hundreds of persons employed seasonally in the tourist industry, who leave and reside elsewhere in November.

This was a typical inequity in the law, but required a special census of our county to make certain whether or not we were covered. The census was an additional cost to the federal taxpayers and an embarrassment to our county because no allegation of voter discrimination had ever been made against our county.

Under title II of this act, our whole congressional district will be covered under the Spanish surname provision—and no extra census will get us out from under the extra costs, inconveniences and jeopardy of the Act. All counties in our district, Santa Cruz, Monterey, San Benito and San Luis Obispo, have more than 5 percent Spanish surnames or Mexican language minorities and less than 50 percent of the voting age population voted in 1971. So we will be required to obtain the consent of the Attorney General before we can change any voting law and we will be required to print all ballots, sample ballots and election information and materials in Spanish. We are being put to all of this extra expense and inconvenience when there has been no allegation of discrimination in voting. Even our Spanish surnamed citizens will resent the extra costs, inconveniences, trouble and condescension.

Most Spanish surnamed citizens would prefer that the extra costs and trouble required by this act be spent on English teaching so that their people could more quickly and easily fit into the mainstream of America.

The more that is done to accommodate a foreign language speaking person, the less incentive he will have to become fluent in English and the longer it will take him to fit in to our English-speaking society beneficially and comfortably.

We do no one a favor by printing ballots or election materials in another language. On the contrary we may be making it easier for illegal aliens to vote without detection and this situation would further degrade our vaunted election process.

Generally the same persons who are promoting these special additional racial and language provisions in this act are the ones who are also promoting voter registration by postcard which they expect to lead to actual voting by mail—instead of in private voting booths—which will permit third persons to monitor a voter's ballot.

When this finally occurs there will no longer be a secret ballot, which is the lynch pin of a representative democracy.

This bill is another nose of a herd of camels under our tent we once called a "representative democracy" where everyone had the privilege of voting but also had the responsibility of citizenship which included knowing enough of the official language to vote if he chose to do so. Of course we want to guarantee every citizen the privilege of voting without discrimination. The 14th and 15th amendments provide this guarantee. We do not have to penalize innocent counties or States; we do not have to be condescending; we do not have to degrade our language or customs; we do not have to impose additional costs and inconvenience to innocent areas to guarantee the protections of the constitution to all our citizens.

Furthermore, all counties in our congressional district will be covered under section 4, which provides that districts which have more than 5 percent Asian minorities and less than 50 percent voted in 1972 must print ballots and all election materials in the language of those minorities. I am informed that at least one county in our congressional district has 5 percent Asian minorities—Japanese, Chinese, Philippino, and others including Indonesian and Vietnamese. I have been advised today that under the law, therefore, the ballots and election materials must be printed in Japanese, Chinese—probably two dialects—Philippine dialects—maybe two or more.

Does the law provide for election judges in all the various languages? If you have 3 or 4 different language ballots, how many election judges will be required at every polling place? Is this not an absurd requirement to impose on a political subdivision where there has been no allegation of discrimination?

As much as I would like to vote for a voting rights bill again, as much as I realize how easily a vote against such an admirable and popular idea as "voting rights" can be, and will be, misinterpreted by certain partisans, I must oppose this bill in its present form.

To avoid discrimination against some, you are discriminating unnecessarily against many others.

Instead of enhancing and extending the privilege of voting, you are degrading the privilege; you are being condescending to those racial and language minorities who have done their duty and assumed their responsibilities of citizenship; you are degrading the franchise; you are imposing costs and inconvenience upon innocent citizens and municipalities; you are dividing our peoples rather than unifying them.

I recognize that this bill will pass because of its alluring title and emotional appeal. I suppose no one would care, and it would make little difference, if I voted "aye." In fact, it would be politically more popular and easier to explain an "aye" vote—but my conscience and my concern for our franchise, the most

valuable privilege of citizenship, requires me to vote "nay."

If you think I worry too much about the degradation of the privileges and responsibilities of voting, I would like to advise you that an alien living in my hometown of Salinas has brought suit to mandate the registrar of voters to permit him to register in a school board election. California Rural Legal Assistance—CRLA—a federally funded law firm, is the lawyer for the plaintiffs who I must presume are indigents as well as aliens.

The thesis of the suit is that the Constitution says in effect "No citizen shall be denied the right to vote—and so forth." The Constitution contains no specific prohibition against aliens voting and therefore why should not aliens be permitted to vote? This alien has an obvious interest in the schools—he has 12 children whom he wants educated. He has lived in the United States for 20 years and may own property and therefore may pay school taxes. But he does not want to become a citizen for a number of reasons—he does not want to learn English or study to pass the citizenship tests and, furthermore, aliens can cross and recross borders more easily than citizens. He wants all the privileges of citizenship, including voting, but he does not want to assume the most basic of all responsibilities of U.S. citizenship, namely: learn the official language of the country he calls home and which he expects to provide for the common defense, protection and general welfare of himself and his family.

This so-called voting rights bill very closely approaches the objectives of this lawsuit. I believe I should call attention to the direction we are heading because of these various efforts.

I could and would vote for a simple extension of the Voting Rights Act, because I believe it did some good. It was a necessary civil rights bill. The additional provisions of this bill, however, will negate the good.

I shall fight to prevent any discrimination affecting the basic privilege of voting by citizens; but the same concern and principles force me to vote against this bill.

Mr. DUNCAN of Oregon. Mr. Chairman, I move to strike the necessary words.

Mr. Chairman, I take this time simply because of the increasing confusion which seems to be developing on this bill and particularly this aspect of it that we are now discussing. I have sat back there as both a lawyer and a legislator, and I have become from time to time amazed, sometimes amused, frequently astonished, and, after the colloquy between the chairman of the subcommittee and my friend from Hawaii, I was even appalled.

I have been a lawyer and I have had recourse to legislative history in order to try to make a legal point. I have found that the courts are willing to look at the legislative history where the language is ambiguous, but they will not rely on it where the language is clear or is susceptible to only one reasonable meaning. Neither will they use legislative history in order to subvert or controvert a logical legislative act into either a meaningless or a ridiculous act.

Mr. Chairman, as I read this language that had to do with language minority, and particularly these words "single language minority," it never occurred to me that there was any ambiguity. I looked at "single language minority," and I thought there was an adjective "single" that modified the adjective "language" that modified the noun "minority," and that the only possible, reasonable, rational construction one could put on this language was that when there was a 5-percent minority that spoke a single language, we would, under those circumstances, say that in order to give people their civil rights the ballot would have to be printed in that language.

But where you try, through this colloquy, to convert a multilanguage minority into a single-language minority, I see no other option, for the local election district if they have a 5-percent Asian minority, some of whom speak Mandarin Chinese, who cannot possibly understand those who speak Cantonese, or any of the other 20 or 30 dialects in Chinese, or some who may speak Khmer or some who may speak Cham, or some who may speak Moro or Tagalog. I cannot believe this Congress would intend it, and yet the language of the colloquy as I heard it, will require each election district to print ballots in each of those languages.

On page 8, line 19, the word "each" is used as a modifier of "language" which modifies "minority" and that, to me, confirms what I believe is a rational interpretation of a single-language minority; and I simply do not want some court searching through this legislative record for a basis on which to make a decision on this bill to have to rely solely on that colloquy between the chairman of the subcommittee and the gentleman from Hawaii and the subsequent confusion which has ensued.

I think the only rational interpretation of this language is that if you have a 5-percent Asian minority group who speak a single language—5 percent speak one language—then in order to fulfill the civil rights of those people you must have the ballot printed in that language. I cannot believe that if there are only two of that Asian minority who spoke a single language that this Congress wants to impose on that legislative district the burden of printing multiple ballots in multiple language.

If we do, then I do not see how any court can say it is constitutional if we do not do the same thing for the Germans, for the Poles, for the Czechoslovakians, for the Irish, or for anybody else.

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

Mr. DUNCAN of Oregon. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding. Mr. Chairman, is it not true that "language minorities" is really the term being defined and that "single" is just the adjective?

Mr. DUNCAN of Oregon. "Single" is the adjective, but I think in order to have it make sense, the adjective, "single," has to modify the adjective, "language." The difficulty we get into there—and it adds to the confusion, I agree—is that they have defined in the bill the term, "language minorities."

Mr. ROUSSELOT. But "language minorities" is the defined term on page 7 of the bill?

Mr. DUNCAN of Oregon. The gentleman is correct.

Mr. ROUSSELOT. And that is why the gentleman from Hawaii evidently was trying to clarify it, because he was concerned about the sub-language categories and was not sure what the adjective single meant.

Mr. DUNCAN of Oregon. Mr. Chairman, I really thought that the draftsman had exercised a considerable amount of skill by not defining "single-language minorities" as a separate term. I believed that was intentional and deliberate, and that was one of the reasons I became so confused by the colloquy.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield further, does the gentleman feel that the discussion raised by the gentleman from Hawaii really did not help clarify the matter?

Mr. DUNCAN of Oregon. Mr. Chairman, the gentleman is one of my good friends; we came into the Congress together. I would not single him out, nor would I single the chairman of the committee out.

I think the continuing colloquy has added to the confusion, and I did not want any court looking at this to conclude that all of the Members of the House agreed with the interpretation placed upon it in that colloquy.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. McCLORY).

The question was taken; and on a division (demanded by Mr. EDWARDS of California) there were—ayes 64, noes 24.

RECORDED VOTE

Mr. EDWARDS of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 311, noes 103, not voting 19, as follows:

[Roll No. 261]

AYES—311

Abdnor	Boggs	Collins, Tex.
Adams	Boland	Conable
Addabbo	Bonker	Conte
Ambro	Bowen	Cornell
Anderson, Calif.	Breaux	Crane
Anderson, Ill.	Brinkley	D'Amours
Andrews, N. Dak.	Brooks	Daniel, Dan
Annunzio	Broomfield	Daniel, R. W.
Archer	Brown, Mich.	Daniels, N.J.
Armstrong	Brown, Ohio	Danielson
Ashbrook	Broyhill	de la Garza
Ashley	Burgener	Delaney
Aspin	Burke, Calif.	Dent
AuCoin	Burke, Fla.	Derrick
Bafalis	Burke, Mass.	Derwinski
Baldus	Burleson, Tex.	Devine
Barrett	Butler	Dickinson
Baucus	Byron	Dingell
Bauman	Carter	Downing
Beard, R.I.	Casey	Duncan, Oreg.
Beard, Tenn.	Cederberg	Duncan, Tenn.
Bell	Chappell	Early
Bevill	Clancy	Edwards, Ala.
Biaggi	Clawson, Del	Emery
Blanchard	Cleveland	English
Blouin	Cochran	Erlenborn
	Cohen	Esch
	Collins, Ill.	Eshleman

Evans, Ind.	Latta	Risenhoover
Evins, Tenn.	Leggett	Roberts
Fascell	Lehman	Robinson
Fenwick	Lent	Roe
Fish	Litton	Rogers
Fisher	Lloyd, Calif.	Roncalio
Flood	Lloyd, Tenn.	Rose
Flynt	Long, Md.	Roush
Foley	Lott	Rousselot
Ford, Mich.	Lujan	Runnels
Forsythe	McClory	Ruppe
Fountain	McCloskey	St Germain
Frenzel	McCollister	Santini
Frey	McDade	Sarasin
Fulton	McDonald	Satterfield
Fuqua	McEwen	Schneebeli
Gaydos	McFall	Schulze
Giaimo	McHugh	Sebelius
Gibbons	McKay	Seiberling
Gilman	McKinney	Sharp
Ginn	Macdonald	Shipley
Goldwater	Mahon	Shriver
Gonzalez	Martin	Shuster
Goodling	Matsunaga	Sikes
Gradison	Melcher	Sisk
Grassley	Michel	Skubitz
Gude	Mikva	Smith, Iowa
Guyer	Milford	Smith, Nebr.
Hagedorn	Miller, Ohio	Snyder
Haley	Mills	Solarz
Hall	Mineta	Spellman
Hamilton	Minish	Spence
Hammer-schmidt	Mink	Staggers
	Mitchell, N.Y.	Stanton, J. William
Hanley	Moakley	
Hannaford	Montgomery	Stanton, James V.
Hansen	Moore	
Harkin	Moorhead, Calif.	Steed
Harsha		Steelman
Hastings	Moorhead, Pa.	Steiger, Ariz.
Hays, Ohio	Morgan	Steiger, Wis.
Hechler, W. Va.	Mosher	Stephens
Heckler, Mass.	Mottl	Studds
Hefner	Murphy, Ill.	Sullivan
Heinz	Murphy, N.Y.	Symington
Helstoski	Murtha	Symms
Henderson	Myers, Ind.	Talcott
Hicks	Natcher	Taylor, Mo.
Hightower	Neal	Taylor, N.C.
Hillis	Nedzi	Thone
Hinshaw	Nichols	Thornton
Holt	Nix	Traxler
Horton	Nowak	Treen
Howard	Oberstar	Tsongas
Howe	Obey	Van Deerlin
Hubbard	O'Brien	Vander Jagt
Hughes	O'Hara	Vanik
Hutchinson	Ottinger	Vigorito
Hyde	Passman	Waggonner
Ichord	Patterson, Calif.	Walsh
Jarman		Wampler
Jeffords	Pepper	White
Johnson, Calif.	Perkins	Whitehurst
Johnson, Colo.	Pettis	Whitten
Johnson, Pa.	Peyser	Wilson, Bob
Jones, N.C.	Pickle	Wilson, C. H.
Jones, Okla.	Poage	Winn
Kasten	Pressler	Wolff
Kazen	Preyer	Wright
Kelly	Pritchard	Wydler
Kemp	Quie	Wylie
Ketchum	Quillen	Yates
Kindness	Randall	Yatron
Krebs	Rees	Young, Alaska
Krueger	Regula	Young, Fla.
LaFalce	Rhodes	Young, Tex.
Lagomarsino	Riegle	Zablocki
Landrum	Rinaldo	Zeferetti

NOES—103

Abzug	Davis	Jenrette
Andrews, N.C.	Dellums	Jones, Ala.
Badillo	Diggs	Jordan
Bedell	Dodd	Karth
Bennett	Downey	Kastenmeier
Bergland	Eckhardt	Keys
Biester	Edgar	Koch
Bingham	Edwards, Calif.	Levitas
Bolling	Eilberg	Long, La.
Brademas	Evans, Colo.	Madden
Breckinridge	Findley	Madigan
Brodhead	Fithian	Maguire
Brown, Calif.	Florio	Mann
Buchanan	Flowers	Mazzoli
Burlison, Mo.	Ford, Tenn.	Meeds
Burton, John	Fraser	Metcalfe
Burton, Phillip	Green	Meyner
Carney	Harrington	Mezvinsky
Carr	Harris	Miller, Calif.
Chisholm	Hawkins	Mitchell, Md.
Clay	Hayes, Ind.	Moffett
Conyers	Holland	Moss
Corman	Holtzman	Nolan
Cotter	Hungate	O'Neill
Coughlin	Jacobs	Patten, N.J.
Pattison, N.Y.	Russo	Thompson
Pike	Ryan	Udall
Price	Sarbanes	Vander Veen
Rangel	Scheuer	Waxman
Reuss	Schroeder	Weaver
Richmond	Simon	Whalen
Rodino	Slack	Wirth
Rooney	Stark	Young, Ga.
Rosenthal	Stokes	
Roybal	Stratton	

NOT VOTING—19

Alexander	Jones, Tenn.	Rostenkowski
Clausen, Don H.	McCormack	Stuckey
	Mathis	Teague
Conlan	Mollohan	Ullman
Drinan	Myers, Pa.	Wiggins
du Pont	Patman, Tex.	Wilson, Tex.
Hébert	Railsback	

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. EDWARDS of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I believe we have an agreement to vote on the final passage of the bill at 6:30 and with a time limitation on certain amendments that remain, so I ask unanimous consent at this time that the bill be considered as read in full and open to amendment at any point.

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

Mr. JOHNSON of Colorado. Mr. Chairman, I object.

Mr. EDWARDS of California. Mr. Chairman, I so move.

The CHAIRMAN. The motion is not in order. Only title II could be closed at this time by a motion.

AMENDMENT OFFERED BY MR. M'CLORY

Mr. McCLORY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLORY: On page 6, line 10, and on page 9, line 9, strike out "language" and insert in lieu thereof the following: "language: *Provided*, That where the language of the applicable minority group is oral or unwritten, the State or political subdivision is only required to furnish oral instructions, assistance, or other information relating to registration and voting."

Mr. McCLORY. Mr. Chairman, I ask unanimous consent that the amendment be considered notwithstanding that it applies also to title III of the bill.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. EDWARDS of California. Mr. Chairman, I would ask the gentleman from Illinois, is this not the matter we discussed on the floor and had a colloquy about which relates to the registration?

Mr. McCLORY. This is the amendment we discussed.

Mr. EDWARDS of California. Mr. Chairman, we have no objection to the amendment on this side.

Mr. McCLORY. Mr. Chairman, this amendment merely sets forth specifically in the bill that if the language of the minority group is not a written language, it will satisfy the act to provide an oral explanation or assistance to the language minority group member and we will not require the reduction of the unwritten language into written form.

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

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

Mr. BUTLER. Mr. Chairman, if I may say to the gentleman, the minority on the subcommittee have reviewed this language and we have no objection to it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. BIAGGI

Mr. BIAGGI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Biaggi: Page 7, beginning in line 8, strike out "who" and all that follows down through the end of line 9, and insert in lieu thereof the following: "whose principal spoken language is other than English."

Mr. BIAGGI. Mr. Chairman, I offer another amendment to title III with similar language and I ask unanimous consent that the amendments be considered en bloc.

The Clerk read as follows:

Amendment offered by Mr. BIAGGI: Page 9, beginning in line 21, strike out "who" and all that follows down through the end of line 23, and insert in lieu thereof the following: "whose principal spoken language is other than English."

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BIAGGI. Mr. Chairman, I have been listening to the debate for the last 2 days. The last colloquy convinced me more than ever that a great deal is left to be desired on this bill. I support the bill fundamentally, but we all know it is not a perfect creature.

I am really disappointed with the intransigent position of opposition taken by the committee, in spite of all the persuasive arguments.

Mr. Chairman, my amendment, I hope will deal with the issue of a nondiscriminatory basis, on a basis that affects every American in these United States, every group—and I emphasize that, because as we look at the history of this whole proposition relative to minority languages, we find we have a restrictive approach which leaves people outside of this definition to struggle for themselves.

Mr. Chairman, my amendment would simply correct what I consider to be an arbitrary, unfounded limitation on the definition of language minority groups. The committee bill defines language minority groups as being certain specific categories of people which I find remarkable and wanting.

I spoke to the gentlewoman from Hawaii, who stated that she was offended by the term "Asian American" and even more, there is no such thing as an Asian American .There may be Asian American groups, but no Asian Americans, and yet we have that in this language. I would suggest a little more investigation, a little more inquiry in this area, a little sensitivity in this area and we would obviate the offense.

My amendment, on the other hand, defines language minority groups as

those groups whose principal spoken language is other than English.

The intent of this legislation is clear. We want to assure Americans—all Americans, full and equal access to participation in the electoral process. This is one of the most basic rights of our democracy. However, if discrimination exists, it is wrong, whether those discriminated against are of Spanish heritage, are American Indians, or are Greek, Italian, Albanian-speaking Americans or anyone else.

Yet the committee limits applications of the provisions of this bill to certain categories of people. We even had an illustration where Eskimos wanted to be excluded from the effect of this bill. Yet when the gentleman from Alaska (Mr. YOUNG), representing that State, articulated this sentiment the committee ignored his pleas.

I think the committee is insensitive to persist in this attitude. A clear case of discrimination is said to exist with respect to Spanish-speaking Americans. It has been said that no such case has been made for the other groups included in this definition.

Let me speak about that. Who has not made this case? The agencies involved? There simply has not been an aggressive attitude on the part of the agencies inquiring into this issue. I am a member of the Education and Labor Committee. When I spoke to representatives of the U.S. Attorney General's office, and HEW, relative to bilingual programs in the United States, I said, "Give me the number of people you have other than Spanish and Mexicans involved in this program, give me the Albanians you have in bilingual." Not one.

"Give me the Greek program." Not one.

"Give me the Italian program." Not one.

It is quite evident that they suffer from tunnel vision in the application of that program and that tunnel vision has to be enlarged if all Americans are to be treated freely and equally.

The chairman of the committee, the gentleman from New Jersey (Mr. RODINO) tells me that no such case has been made. Let us look at this question; What has been done in this matter? We are told in the report that no evidence was received. Has there been an aggressive approach by this committee on this bill in their quest for the true picture? Has there been a determination to go out into the field and find out? I suggest that they did not do that.

In my district we have the largest concentration of Greeks in the Nation. And we are told there is no evidence—we have three Greek papers; we have many Greek radio programs, Some of these people are having trouble and could use the assistance.

We have Albanians. Some people do not know that Albanians are in this country. I have the largest concentration of Albanians in the Nation in my district. I am sure many of them do not speak English. What has the committee done in reference to them? Could not they be found? I suggest the committee has not tried.

This legislation should not be so narrowly defined as to eliminate other groups in the future. What happens if, during the next 10 years, another group of Americans not covered under the proposed provisions of this bill would be discriminated against? Must they wait 10 years for relief?

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent Mr. BIAGGI was allowed to proceed for 3 additional minutes.)

Mr. BIAGGI. I listened to the subcommittee chairman and the gentleman from New York (Mr. BADILLO), when they said that we should not place the burden on a case by case basis, and I agree. Most of the people who are offended do not know how to obtain relief. They are intimidated by government, they are frightened by government, they are coerced by government and they are not going to do anything. That is why it is essential that government do its job responsibly. That is why all Americans should be included in this bill.

Certainly, the solution is to define language minority in the broad sense, as my amendment seeks to do. This would not mean, however, that elections would be conducted in a multiple of languages. Only when cases of discrimination are found to exist as set forth in the legislation, based on measures of voter participation and concentration of the language minority in a geographic area—would the relief provisions of the bill go into effect.

The CHAIRMAN. The time of the gentleman from New York has again expired.

(On request of Mr. DE LA GARZA and by unanimous consent Mr. BIAGGI was allowed to proceed for 2 additional minutes.)

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

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

Mr. DE LA GARZA. Mr. Chairman, I rise to join with my colleague in support of his amendment. I have prepared an amendment that would have said "mother tongue" instead of "English" because I felt badly, as much as I support this legislation, as the gentleman from New York does; as much as there might be need, which I do not deny, I felt badly in asking for something for my group that will not be shared with all other Americans who cannot benefit from the goodness and from the efforts and help of this type of legislation.

I did not offer the amendment for no other reason except so as not to be detrimental to the legislation which I support, and will support, but I do support the gentleman from New York because, if we speak of one American, we speak of all Americans. If they have trouble voting, let us give them the assistance, regardless of what their language is or their unique derivation. I support the gentleman's amendment.

Mr. BIAGGI. Mr. Chairman, I thank the gentleman very much for his comments.

He has capsuled the entire concept in his brief comments. All Americans should be treated alike. Every group should be given the same opportunity and availability to the law.

Over the last several years, I have been disturbed about the application of the word "minority"—particularly language minority—to mean only certain groups. If a group is a minority and it is being discriminated against, that group should expect relief under the laws of the land.

My amendment would assure all language minority groups that the Voting Rights Act will provide them with equal access to the polls in the event of discrimination against them. To do less would violate the entire intent and purpose of the Constitution, the Civil Rights Act, and this very bill itself.

Mr. BADILLO. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, originally when the hearings on this extension of the Voting Rights Act came up, the gentleman from California (Mr. ROYBAL) and myself, together with the gentlewoman from Texas (Miss JORDAN), introduced legislation which said, as has been suggested, that the people who would be affected were the people whose mother tongue was other than English.

Then, we went to hearings, and as the report indicates on page 23, we discovered that when it comes to ethnic origins, the percentages of people registered were: German, 79 percent; Italian, 77 percent; Irish, 76.7 percent; French, 72.7 percent; but for the Spanish speaking people, it was 44 percent.

We have had votes here yesterday, especially, where we were criticized because we did not have sufficient evidence when it came to the Spanish-speaking people. We have had the same votes today. What we have sought to do was to include those people where we had specific evidence. The evidence that was involved particularly concerned those of Spanish heritage, not only the evidence of the witnesses that came before us, not only the evidence of the court cases, but the evidence that was reported by the Bureau of the Census, as well. It was for that reason that we sought to limit the application of the act to provide a remedy where a remedy is needed in these particular cases.

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

Mr. BADILLO. I will yield to the gentleman.

Mr. BIAGGI. I agree that 44 percent brings the Spanish within the purview of this bill, and I support this bill. But the gentleman very conspicuously omitted referring to Greeks. It is not on the list on page 23 nor are the Albanians there.

In 1965, when we passed this bill, there were some violations of the law, and we dealt with them. Later on, there were new violations.

Now we pass this bill this time, and the argument is made, "Well, we have no evidence."

I suggest that perhaps in the next 10 years violations could develop. With my amendment we would have a bill which can be enacted, and can trigger sanctions

to correct discrimination against the newly affected groups. To place the burden on small groups to initiate action or to come back to this Congress to get new legislation is not a very realistic approach, in view of this alternative.

Mr. BADILLO. I would like to answer that. We do not have any disagreement, as far as the Greeks and the Albanians. The gentleman knows we have been looking to get bilingual and other items. The difference is that we have been talking about voting rights, talking about citizens, and, therefore, when it comes to those areas, the particular people involved are not citizens. If they are citizens, they have already passed, in effect, a literacy test, when they got their citizenship papers.

Therefore, they do not come within the problem that we spell out here, which is the question of educational deprivation. It is for that reason that, historically, those groups that came here from Europe as non-citizens did not come into this problem, because in the process of getting to be citizens they had to take a literacy test, they had to learn the language, and, therefore, once they became citizens they did not confront the problems that these groups such as Mexicans and Puerto Ricans had.

That does not mean that there were not cases where there exists a problem of literacy. But talking as a group, it has been indicated that no significant percent of other groups were found other than the groups that have been listed as language minorities in the bill.

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

Mr. BADILLO. I will be glad to yield to the gentleman.

Mr. SARBANES. I thank the gentleman for yielding.

The difficulty with the amendment, in my view, is that it operates on the premise that one is not equal if one speaks a principal language other than English even if such person suffers or encounters no discrimination with respect to participation in the American political process. There is no evidence to sustain that with respect to the ethnic American, speaking now of those who came from Europe, and they are not encountering that problem. This is an effort to deal with a situation which results from a discrimination which has been shown to exist. I do not believe, in the long haul, we ought to have voting machines set up in all different kinds of languages unless that is necessary because we relate it to a discriminatory situation in participating in the electoral process.

Mr. Chairman, this bill seeks to deal with that kind of situation. The amendment broadens it to an entirely different premise and I am very frank to say to the Members of the Committee that I think that premise is not appropriate. We ought not to adopt it.

Mr. Chairman, we ought to reject this amendment and stick with the fundamental approach contained in the committee bill.

Mr. EDWARDS of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I will be brief. I would just like to say "Amen" to what the gentleman from New York (Mr. BADILLO) said.

We made some calculations on what would happen if the amendment offered by the gentleman from New York (Mr. BIAGGI), which is also supported by the gentleman from New York (Mr. SOLARZ), carried. It would result in a coverage of over 40 States and 1,200 counties where there is no record of discrimination whatsoever. The amendment suffers from such a degree of overbroadness that it would destroy the bill.

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just like to point out that in the record of factual evidence of discrimination against persons of minority language groups there is virtually no evidence of any actual discrimination against Alaskan Natives, there is no evidence of any actual discrimination against Asian Americans, and there is no evidence of actual discrimination against American Indians. With respect to those of Spanish heritage, it is limited to a single area to one particular State, and yet this legislation would affect all 50 States.

So, Mr. Chairman, there is no basis for the expansion of this legislation such as we had in 1965 when we first enacted the Voting Rights Act.

Mr. DENT. Mr. Chairman, I move to strike the requisite number of words.

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

Mr. DENT. Yes, I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 5 minutes.

Mr. DENT. Mr. Chairman, does the gentleman mean to include my 5 minutes?

Mr. EDWARDS of California. I do, Mr. Chairman.

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

There was no objection.

Mr. DENT. Mr. Chairman, the argument was made by one of the Members here that these are special cases because these people come here not as immigrants, but they come here as Americans. Do they come here as immigrants, or do they come as citizens, as Americans?

Is it not true that they come as immigrants and then, through the process of becoming citizens, just as my father and the fathers of many other Members here, they become Americans?

Then how do we cover those people under the same premise? Do Spanish-speaking Cubans or Mexicans have a special privileged class?

Mr. Chairman, I know, and we all know, that Canada and Quebec have never been peaceful since the English took over, simply because they have a dual language situation that has never been wiped out.

I warned this House what would happen when we first went through the dual language amendments for the Spanish Americans. I have many Spanish-American friends, and they have never had an opportunity to run for office or become elected to office; they were born outside this country. I think they have an exceptional privilege just being citizens. They never will become a one-language thinking people if we give them dual language schools.

I propose in the next general education aid bill to forbid the use of Federal funds for more than one language elementary school and that language would be English. I will make that proposal if I can. Then, after a student has continued on to high school, that student can then study another language if he wants. When I went to school, most of the fellows I know studied Latin because it was the easiest one to forget.

Mr. Chairman, I want to tell the Members that I stood up here and predicted we would have this very problem. This was anticipated by this Member on the floor, and I told the Members it would come, and it is going to be worse than this.

In the new election law that we are trying to put on the books on postcard voting, it means that every person who gets a card to register can request an application and ballot if they desire in any language that he wants. How many precincts are going to have to have a dozen or so languages?

I have a district that has more than 5 percent of maybe 30 different languages, because I come from coal mining areas and industrial cities. We did not have any trouble.

My mother and father would not allow me to try to speak back in their native tongue. They said that they wanted to learn what they could of English from me, not have me learn from them. The little Italian that I know I learned in South America, in Haiti, in the Marine Corps.

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

Mr. DENT. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, I want to commend the gentleman in the well for his remarks. I agree wholeheartedly with all he has said.

Mr. DENT. Mr. Chairman, I am not ashamed to be the son of immigrants. I am proud of the fact that I am and that this country has made it possible for me to serve in this body of the U.S. Congress with only an eighth-grade education. However, I have one language, and I say that every American in grammar school should study English.

I have gone out to California, and I know Spanish Americans or Mexican Americans who have been there for two generations and still do not speak English. Why? Because they did not apply themselves.

The schools are here. Whether you are born of Spanish American parents or Italian American parents, you start school in the first grade or in kindergarten with all other kids who start even-steven. They do not know grammar. They do not know arithmetic. They do not know anything, but they learn it all together, each and every one. When we include Asian Americans, however, we walk away from the very truth that we are trying to advance here, that we have a special class of Spanish-speaking Americans which deserves special consideration. Why, then, include the Asian Americans? Why do they fit into the picture? They are coming here the same as my people came here as immigrants and most of the Members' people, at one time or another came here in the same fashion.

I warned this House, and the Members would not believe me. Believe me now. This is a second step. There will be a third and there will be a fourth.

A person thinks in the language that the person talks.

There will be Spanish-talking, Spanish-thinking and collectively Spanish-voting pockets in more than one State.

If we had this type of thinking when the masses of immigrants came to this Nation, our Nation would be a hodgepodge of ethnic speaking and thinking and voting foreigners to this day.

The CHAIRMAN. All time has expired.

The question is on the amendments offered by the gentleman from New York (Mr. BIAGGI).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BIAGGI. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 156, noes 253, not voting 24, as follows:

[Roll No. 262]

AYES—156

Adams	Daniels, N.J.	Hinshaw
Addabbo	Davis	Holt
Ambro	de la Garza	Ichord
Annunzio	Delaney	Jeffords
Archer	Dent	Jones, Okla.
Ashbrook	Derwinski	Kazen
Aspin	Devine	Kemp
Barrett	Dickinson	Ketchum
Bauman	Downey	Landrum
Bevill	Downing	Lent
Biaggi	Duncan, Tenn.	Levitas
Blanchard	Edwards, Ala.	Long, La.
Boggs	Emery	Lott
Bowen	English	McCollister
Brinkley	Erlenborn	McDonald
Brooks	Esch	McHugh
Broomfield	Flood	Madden
Buchanan	Flowers	Maguire
Burke, Fla.	Flynt	Mahon
Burke, Mass.	Ford, Mich.	Martin
Burleson, Tex.	Fountain	Milford
Byron	Frey	Minish
Carney	Gaydos	Moffett
Casey	Gilman	Montgomery
Cederberg	Ginn	Moorhead, Calif.
Chappell	Goldwater	Mottl
Clancy	Gonzalez	Murphy, Ill.
Clawson, Del	Grassley	Murphy, N.Y.
Cochran	Haley	Murtha
Cohen	Hanley	Neal
Collins, Tex.	Hays, Ohio	Nedzi
Cotter	Hefner	Nichols
Crane	Helstoski	Nix
Daniel, Dan	Henderson	Oberstar
Daniel, R. W.	Hightower	O'Hara
Ottinger	Russo	Taylor, N.C.
Patman, Tex.	Santini	Treen
Patterson, Calif.	Satterfield	Vigorito
Peyser	Schulze	Waggonner
Pike	Shipley	Wampler
Poage	Sisk	White
Pressler	Snyder	Whitehurst
Quillen	Solarz	Whitten
Rinaldo	Spence	Winn
Risenhoover	Staggers	Wolff
Roberts	Stanton, James V.	Wright
Robinson	Steed	Wydler
Roncalio	Steiger, Ariz.	Yatron
Rosenthal	Stephens	Young, Alaska
Rousselot	Stratton	Young, Fla.
Runnels	Symington	Young, Tex.
	Symms	Zablocki
		Zeferetti

NOES—253

Abdnor	Gibbons	Mitchell, Md.
Abzug	Gradison	Mitchell, N.Y.
Anderson, Calif.	Green	Moakley
Anderson, Ill.	Gude	Moore
Andrews, N.C.	Guyer	Moorhead, Pa.
Andrews, N. Dak.	Hagedorn	Morgan
Armstrong	Hall	Mosher
Ashley	Hamilton	Moss
AuCoin	Hammer-schmidt	Myers, Ind.
Badillo	Hannaford	Natcher
Bafalis	Hansen	Nolan
Baldus	Harkin	Nowak
Baucus	Harrington	Obey
Beard, R.I.	Harris	O'Brien
Beard, Tenn.	Harsha	O'Neill
Bedell	Hastings	Passman
Bell	Hawkins	Patten, N.J.
Bennett	Hayes, Ind.	Pattison, N.Y.
Bergland	Hechler, W. Va.	Pepper
Biester	Heckler, Mass.	Perkins
Bingham	Heinz	Pettis
Blouin	Hicks	Pickle
Boland	Hillis	Preyer
Bolling	Holland	Price
Bonker	Holtzman	Pritchard
Brademas	Horton	Quie
Breaux	Howard	Randall
Breckinridge	Howe	Rangel
Brodhead	Hubbard	Rees
Brown, Calif.	Hughes	Regula
Brown, Mich.	Hungate	Reuss
Brown, Ohio	Hutchinson	Rhodes
Broyhill	Hyde	Richmond
Burgener	Jacobs	Riegle
Burke, Calif.	Jenrette	Rodino
Burlison, Mo.	Johnson, Calif.	Roe
Burton, John	Johnson, Colo.	Rooney
Burton, Phillip	Johnson, Pa.	Rose
Butler	Jones, Ala.	Roush
Carr	Jones, N.C.	Roybal
Carter	Jordan	Ruppe
Chisholm	Karth	Ryan
Clay	Kasten	St Germain
Cleveland	Kastenmeier	Sarasin
Collins, Ill.	Kelly	Sarbanes
Conable	Keys	Scheuer
Conte	Kindness	Schneebeli
Conyers	Koch	Schroeder
Corman	Krebs	Sebelius
Cornell	Krueger	Seiberling
Coughlin	LaFalce	Sharp
D'Amours	Lagomarsino	Shriver
Danielson	Latta	Shuster
Dellums	Lehman	Sikes
Derrick	Litton	Simon
Diggs	Lloyd, Calif.	Skubitz
Dingell	Lloyd, Tenn.	Slack
Dodd	Long, Md.	Smith, Iowa
Duncan, Oreg.	Lujan	Smith, Nebr.
Early	McClory	Spellman
Eckhardt	McCloskey	Stanton, J. William
Edgar	McCormack	Stark
Edwards, Calif.	McDade	Steelman
Eilberg	McEwen	Steiger, Wis.
Eshleman	McFall	Stokes
Evans, Colo.	McKay	Studds
Evans, Ind.	McKinney	Sullivan
Fascell	Macdonald	Talcott
Fenwick	Madigan	Taylor, Mo.
Findley	Matsunaga	Thompson
Fish	Mazzoli	Thone
Fisher	Meeds	Thornton
Fithian	Melcher	Traxler
Florio	Metcalfe	Tsongas
Foley	Meyner	Udall
Ford, Tenn.	Mezvinsky	Van Deerlin
Forsythe	Michel	Vander Veen
Fraser	Mikva	Vanik
Frenzel	Miller, Calif.	Walsh
Fulton	Miller, Ohio	Waxman
Fuqua	Mills	Weaver
Giaimo	Mineta	Whalen
	Mink	Wilson, Bob
Wilson, C. H.	Wylie	Young, Ga.
Wirth	Yates	

NOT VOTING—24

Alexander	Jarman	Rostenkowski
Clausen, Don H.	Jones, Tenn.	Stuckey
Conlan	Leggett	Teague
Drinan	Mann	Ullman
du Pont	Mathis	Vander Jagt
Evins, Tenn.	Mollohan	Wiggins
Goodling	Myers, Pa.	Wilson, Tex.
Hébert	Railsback	
	Rogers	

So the amendment was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Drinan against.

Mr. Teague for, with Mr. Jones of Tennessee against.

Mr. Mollohan for, with Mr. Evins of Tennessee against.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE III

SEC. 301. The Voting Rights Act of 1965 is amended by inserting the following new section immediately after section 202:

"BILINGUAL ELECTION REQUIREMENTS

"SEC. 203. (a) The Congress finds that, through the use of various practices and procedures, citizens of language minorities have been effectively excluded from participation in the electoral process. Among other factors, the denial of the right to vote of such minority group citizens is ordinarily directly related to the unequal educational opportunities afforded them, resulting in high illiteracy and low voting participation. The Congress declares that, in order to enforce the guarantees of the fourteenth and fifteenth amendments to the United States Constitution, it is necessary to eliminate such discrimination by prohibiting these practices, and by prescribing other remedial devices.

"(b) Prior to August 6, 1985, no State or political subdivision shall provide registration or voting notices, forms, instruction, assistance, or other materials or information relating to the electoral process, including ballots, only in the English language if the Director of the Census determines (i) that more than 5 percent of the citizens of voting age of such State or political subdivision are members of a single language minority and (ii) that the illiteracy rate of such persons as a group is higher than the national illiteracy rate: *Provided*, That the prohibitions of this subsection shall not apply in any political subdivision which has less than five percent voting age citizens of each language minority which comprises over five percent of the statewide population of voting age citizens. For purposes of this subsection, illiteracy means the failure to complete the fifth primary grade. The determinations of the Director of the Census under this subsection shall be effective upon publication in the Federal Register and shall not be subject to review in any court.

"(c) Whenever any State or political subdivision subject to the prohibition of subsection (b) of this section provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable minority group as well as in the English language.

"(d) Any State or political subdivision subject to the prohibition of subsection (b) of this section, which seeks to provide English-only registration or voting materials or information, including ballots, may file an action against the United States in the United States District Court for the District

of Columbia for a declaratory judgment permitting such provision. The court shall grant the requested relief if it determines that the illiteracy rate of the applicable language minority group within the State or political subdivision is equal to or less than the national illiteracy rate.

"(e) For purposes of this section, the term 'language minorities' or 'language minority group' means persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage."

SEC. 302. Sections 203, 204, and 205 of the Voting Rights Act of 1965, are redesignated as 204, 205, and 206, respectively.

SEC. 303. Section 203 of the Voting Rights Act of 1965, as redesignated section 204 by section 302 of this Act, is amended by inserting immediately after "in violation of section 202," the following: "or 203,".

SEC. 304. Section 204 of the Voting Rights Act of 1965, as redesignated section 205 by section 302 of this Act, is amended by striking out "or 202" and inserting in lieu thereof ", 202, or 203".

TITLE IV

SEC. 401. Section 3 of the Voting Rights Act of 1965 is amended by striking out "Attorney General" the first three times it appears and inserting in lieu thereof the following "Attorney General or an aggrieved person".

SEC. 402. Section 14 of the Voting Rights Act of 1965 is amended by adding at the end thereof the following new subsection:

"(e) In any action or proceeding to enforce the voting guarantees of the fourteenth or fifteenth amendment, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.".

SEC. 403. Title II of the Voting Rights Act of 1965 is amended by adding at the end thereof the following new section:

"SEC. 207. (a) Congress hereby directs the Director of the Census forthwith to conduct a survey to compile registration and voting statistics: (i) in every State or political subdivision with respect to which the prohibition of section 4(a) of the Voting Rights Act of 1965 are in effect, for every statewide general election for Members of the United States House of Representatives after January 1, 1974; and (ii) in every State or political subdivision for any election designated by the United States Commission on Civil Rights. Such surveys shall only include a count of persons of voting age by race or color, and national origin, and a determination of the extent to which such persons are registered to vote and have voted in the elections surveyed.

"(b) In any survey under subsection (a) of this section no person shall be compelled to disclose his race, color, national origin, political party affiliation, or how he voted (or the reasons therefor), nor shall any penalty be imposed for his failure or refusal to make such disclosures. Every person interrogated orally, by written survey or questionnaire, or by any other means with respect to such information shall be fully advised of his right to fail or refuse to furnish such information.

"(c) The Director of the Census shall, at the earliest practicable time, report to the Congress the results of every survey conducted pursuant to the provisions of subsection (a) of this section.

"(d) The provisions of section 9 and chapter 7 of title 13 of the United States Code shall apply to any survey, collection, or compilation of registration and voting statistics carried out under subsection (a) of this section."

SEC. 404. Section 11(c) of the Voting Rights Act of 1965 is amended by inserting after "Columbia," the following words: "Guam, or the Virgin Islands,".

SEC. 405. Section 5 of the Voting Rights Act of 1965 is amended—

(1) by striking out "except that neither" and inserting in lieu thereof the following: "or upon good cause shown, to facilitate an expedited approval within sixty days after such submission, the Attorney General has affirmatively indicated that such objection will not be made. Neither an affirmative indication by the Attorney General that no objection will be made, nor";

(2) by placing after the words "failure to object" a comma; and

(3) by inserting immediately before the final sentence thereof the following: "In the event the Attorney General affirmatively indicates that no objection will be made within the sixty-day period following receipt of a submission, the Attorney General may reserve the right to reexamine the submission if additional information comes to his attention during the remainder of the sixty-day period which would otherwise require objection in accordance with this section.".

SEC. 406. Section 203 of the Voting Rights Act of 1965, as redesignated 204 by section 302 of this Act, is amended by striking out "section 2282 of title 28" and inserting "section 2284 of title 28" in lieu thereof.

Mr. EDWARDS of California (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

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

PARLIAMENTARY INQUIRY

Mr. KINDNESS. Mr. Chairman, reserving the right to object, may I direct a parliamentary inquiry?

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. KINDNESS. Mr. Chairman, if this unanimous consent request is agreed to, would that affect action on title II of the bill; would amendments to title II be still in order?

The CHAIRMAN. Title II is still open.

Is there objection to the request of the gentleman from California?

There was no objection.

MOTION OFFERED BY MR. EDWARDS OF CALIFORNIA

Mr. EDWARDS of California. Mr. Chairman, I move that all debate on the bill and all amendments thereto terminate at 6:45 p.m.

The CHAIRMAN. The question is on the motion offered by the gentleman from California.

The motion was agreed to.

The CHAIRMAN. The Chair now recognizes the gentleman from Ohio (Mr. KINDNESS).

AMENDMENT OFFERED BY MR. KINDNESS

Mr. KINDNESS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KINDNESS: Page 2, beginning with line 7, strike out all down through line 10 on page 10, and insert in lieu thereof the following:

SEC. 103. Sections 3 and 6 of the Voting Rights Act of 1965 are each amended by striking out "fifteenth amendment" each time it appears and inserting in lieu thereof "fourteenth or fifteenth amendment".

SEC. 104. Section 3 of the Voting Rights Act of 1965 is amended by inserting immediately after "on account of race or color" each time it appears the following: "or national origin".

And redesignate title IV as title II, and sections 401 through 408 as 201 through 208, respectively.

Mr. KINDNESS. Mr. Chairman, this amendment, in effect, would strike out title II. I think it has been shown in the debate concerning the bill today that there is quite a bit of concern over the content and effect of title II.

I think this gives us a clear opportunity to say yes or no as to whether this bill, the Voting Rights Act, should be extended in the manner that is set forth in title II, confusing as it is.

Mr. Chairman, I would urge support for the amendment to amend by eliminating title II and reverting simply to the protection of the 14th and 15th amendments.

Mr. EDWARDS of California. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this was, in effect, voted on yesterday and overwhelmingly defeated. It would strike the most important part of the bill. I trust that we will reject the amendment today.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. KINDNESS).

The amendment was rejected.

AMENDMENT OFFERED BY MR. JOHNSON OF COLORADO

Mr. JOHNSON of Colorado. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JOHNSON of Colorado: Page 9, line 14, after "Court" strike out "for the District of Columbia".

The CHAIRMAN. The Chair recognizes the gentleman from Colorado.

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

Mr. JOHNSON of Colorado. I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Chairman, if we understand correctly the amendment offered by the gentleman from Colorado, it is that in title III only, the bailout can go to a local district court and not to the District of Columbia, and this side would have no objection.

Mr. JOHNSON of Colorado. That is correct, go to a Federal district court in another area in title III.

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

Mr. JOHNSON of Colorado. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, I associate myself with the remarks of the gentleman from Colorado. We have no objections to the amendment on this side of the aisle.

Mr. JOHNSON of Colorado. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. JOHNSON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. KINDNESS

Mr. KINDNESS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KINDNESS: Page 14, immediately after line 19, insert the following:

SEC. 409. Section 11 of the Voting Rights Act of 1965 is amended by adding at the end the following new subsection:

"(e)(1) Whoever votes more than once in an election referred to in paragraph (2) shall

be fined not more than $10,000 or imprisoned not more than five years, or both.

"(2) The prohibition of this subsection applies with respect to any general, special, or primary election held solely or in part for the purpose of selecting or electing any candidate for the office of President, Vice President, presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, Guam, or the Virgin Islands, or Resident Commissioner of the Commonwealth of Puerto Rico.

"(3) As used in this subsection, the term 'votes more than once' does not include the casting of an additional ballot if all prior ballots of that voter were invalidated, nor does it include the voting in two jurisdictions under section 202 of this Act, to the extent two ballots are not cast for an election to the same candidacy or office."

Mr. KINDNESS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. Does the gentleman from Ohio want to insist on his 5 minutes?

Mr. KINDNESS. Mr. Chairman, I insist on my 5 minutes at this time.

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

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

Mr. EDWARDS of California. Mr. Chairman, this amendment has been discussed on this side. It is a reasonable amendment, and I believe we have no objection to this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. KINDNESS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. KINDNESS

Mr. KINDNESS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KINDNESS: Page 14, immediately after line 19, insert the following:

SEC. 409. (a) Section 4(a) of the Voting Rights Act is amended by striking out "the United States District Court for the District of Columbia" and inserting in lieu thereof the following: "a United States district court".

(b) Section 5 of the Voting Rights Act is amended by striking out "the United States District Court for the District of Columbia" and inserting in lieu thereof the following: "an appropriate United States district court".

(c) Section 13 of the Voting Rights Act of 1965 is amended by striking out "District Court for the District of Columbia" each time it appears and inserting in lieu thereof the following: "appropriate United States district court".

(d) Section 14 of the Voting Rights Act of 1965 is amended—

(1) in subsection (b), by striking out "the District Court for the District of Columbia" and inserting in lieu thereof "a United States district court";

(2) in subsection (d), by striking out "the District Court for the District of Columbia" the first time it appears and inserting in lieu thereof "a United States district court";

(3) in subsection (d), by striking out "District of Columbia" the second time it appears and inserting in lieu thereof "district of a district court"; and

(4) in subsection (d), by striking out "District Court for the District of Columbia" the second time it appears and inserting in lieu thereof "district court".

Mr. KINDNESS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. KINDNESS. Mr. Chairman, this amendment would simply provide that those who have to litigate concerning action under the Voting Rights Act could do so in the Federal district court that is convenient to them, that is, in the State where the action arises.

Mr. Chairman, we have a Federal district court system throughout the country. I believe the time is past when we have to feel that, with an act as broad as the scope of the Voting Rights Act would be in its present form, everyone has to come to the District of Columbia to litigate. There is no particular expertise built up on the part of the judges of the U.S. District Court for the District of Columbia. There have been 4 cases where a judge was actually assigned, 3 cases that went to decision, 10 cases altogether, in the U.S. District Court for the District of Columbia. Out of those, there has been one judge who has been assigned four of those cases.

I take that back. There have been two judges one of whom is still sitting. Most of them have been assigned to one, two, or three. I cannot accept the argument that there is any expertise built up here. There will be many, many jurisdictions that will come under the provisions of the Voting Rights Act in its present form, and we cannot impose all of those on the U.S. District Court for the District of Columbia. It is not ready for it, and the litigants cannot travel all the way to the District of Columbia to settle questions such as those referred to in title III.

Without objection, the amendment was made so that the U.S. district court that was the most convenient could be used in the case of title III problems. I believe that should be true in all of these cases; and I would urge the adoption of the amendment so that we can put our confidence in the district courts of this country; that is, the Federal court system.

Mr. EDWARDS of California. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, under the present provisions of the Voting Rights Act, and under its provisions as extended and expanded by H.R. 6219, exclusive jurisdiction as extended and expanded by H.R. 6219, exclusive jurisdiction for bailout relief and review of section 5 submissions rests with the U.S. District Court for the District of Columbia. Mr. KINDNESS' amendment would eliminate that exclusive jurisdiction and allow local courts to hear and decide such cases. Exclusive jurisdiction ought to be retained in the District of Columbia court. Accordingly, Mr. KINDNESS' amendment must be rejected:

First. The District of Columbia court, since the inception of the act, has served the important function of providing a forum, for those who have had their voting rights transgressed, free of local pressures and customs. In 1965, when the act was first drafted and the exclusive jurisdiction in the District of Columbia court was created, the committee report alluded to the numerous instances wherein local courts had long delayed proceedings filed under prior voting legislation. Moreover, when a finding was made, it was almost inevitably a finding of no discrimination. For example, this is reported to have happened in Dallas County, Ala. where Justice Department photographs of voter registration records showed that the registrars whom the local Federal court had earlier given a clean bill of health were engaging in blatant discrimination. The local pressures and influences which bore upon local judges in 1965 still bear upon such individuals, and we cannot ignore such circumstances by now pretending that they do not exist—as Mr. KINDNESS' amendment would have us do.

Second. In *South Carolina* v. *Katzenbach*, 383 U.S. 301 (1966), the Supreme Court sustained the provisions of the act which limited litigation to the District Court for the District of Columbia. The court found that the Congress could so limit the litigation, pursuant to its constitutional power under article III, section 1, to "ordain and establish" inferior Federal tribunals. The Court also noted that, at that time, similar limitations existed in terms of contractual claims against the United States for more than $10,000 having to be brought in the Court of Claims.

Other examples of exclusive jurisdiction can be found in the Commerce Court created by the Mann-Elkins Act of 1910—which was given exclusive jurisdiction of all cases to enforce orders of the Interstate Commerce Commission or to enjoin, annul, or set aside orders of the Commission; the Emergency Court of Appeals established by the Emergency Price Control Act of January 30, 1942; and the special court created by the Economic Stabilization Act Amendments of 1971. Thus, exclusive jurisdiction courts are nothing new in our jurisprudential system, and their creation by the Congress has been upheld by the Court.

Third. To retain exclusive jurisdiction of Voting Rights Act proceedings in the D.C. court will promote uniformity in the decisionmaking processes under the act.

Fourth. And, although the minority views expressed in the committee report suggest that it is minimal, an expertise has developed among the judges in the District of Columbia court and that expertise is certainly a compelling reason not to modify the statute to eliminate the D.C. court's exclusive jurisdiction. Mr. KINDNESS' own views, as expressed in the committee report, indicate that in the 10 bailout suits filed under the Voting Rights Act, two judges have sat four times, one judge has sat three times, and five judges have sat twice on the required three-judge panels.

While certain Members apparently

find that this is not compelling evidence of a developing expertise in the District of Columbia court, I would respectfully beg to differ. Eight of 14 judges who have heard these bailout cases have had exposure to the intricacies of the law on two or more occasions. Personally, I find such experience, when dealing with such complicated factual and legal issues, quite compelling, and I, therefore, urge that Mr. KINDNESS' amendment be rejected.

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

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

Mr. BUTLER. Mr. Chairman, does the gentleman know how many of these judges are still on the district court? Does the gentleman know how many of these so-called experts are still on the District Court in the District of Columbia?

Mr. EDWARDS of California. No, I do not.

Mr. BUTLER. Is Judge Holtzman there? Is Judge Weimer there? Is Judge Jones there?

I suggest to the gentleman that the expertise that was developed there has moved on.

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

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

Mr. SARBANES. Mr. Chairman, it is evident that new expertise will be developed. The fact that a particular court has changed its composition does not undercut the validity of placing the jurisdiction in that court.

All of the judges obviously cannot stay there forever. I assume that some day they die. Even judges die.

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

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

Mr. BUTLER. Mr. Chairman, the gentleman will recall that in 10 years under the Voting Rights Act we only had 10 bailout cases in the District. It was suggested that they developed expertise, but would it not be far more appropriate to let the judges in the districts where the presumed infractions developed hear these cases, perhaps under a three-judge court?

Mr. EDWARDS of California. No, I disagree. I think the present procedure has worked very well, and I think it would be a great mistake to change it.

Mr. YOUNG of Georgia. Mr. Chairman, will the gentleman yield?

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

Mr. YOUNG of Georgia. Mr. Chairman, I think all we have to do is to look at the morning Post and see what a three-judge court in Mississippi did when they had these cases. I think it is very clear that we have to maintain the act as it is written.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. KINDNESS).

The question was taken; and on a division (demanded by Mr. KINDNESS) there were—ayes 29, noes 68.

So the amendment was rejected.

The CHAIRMAN. With the permission of the committee, the Chair will briefly state the situation.

There are a number of Members who do not have amendments that were placed in the record, and the Chair feels that he must try to protect them somewhat, so he proposes to go to a number of Members on the list so they will at least get some time. The time allotted will be less than a minute.

The Chair recognizes the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Chairman, I support this legislation. It is a sacred guarantee under our Constitution, that every citizen have a right to life, liberty, and the pursuit of happiness.

This can mean many things to many people, but certainly to all of us it must mean the right to choose our elected officials. To deny any person this privilege is against the laws of God and the laws of men, for it is through this method that all of the God given rights and the certain privileges guaranteed in our form of Government can be protected by an individual. It is detestful that anyone would voluntarily try to impair any citizen's participation in the elective process.

I wish we could do more to encourage participation in our elections. I wish we could have positive action, rather than punitive legislation, but perhaps the events of the past are such that this type of legislation is necessary. I do not know. I wish that this legislation could apply to all Americans regardless of their birth, for I speak of all Americans when I speak of life, liberty, and the pursuit of happiness.

I feel it should apply to all States with equal force, for it is just as detestful that one person be kept from voting in New York, as it would be in Maine, or Texas, or California. In this respect I would question the wisdom of the advocates of this legislation. For that is what this country is all about, that one person, any person, anywhere, anytime have the right, the sacred privilege of deciding who their elective representatives should be.

I must respectfully caution that there is potential for mischief under this legislation, for abuse. I would hope that this does not come to pass, and that we keep constant oversight to see that it is used properly and for the legitimate reasons it was enacted. I would hope, Mr. Chairman, that we also be very careful, that in protecting one group's rights, we do not abridge another's. This can easily happen, and it has; I can attest to that. Again, Mr. Chairman, I support this legislation for the reasons stated and with the hope that it will be used truly and faithfully for the benefit of all, and with detriment to none.

(By unanimous consent, Messrs. DE LA GARZA and DANIELSON yielded their time to Mr. KREBS.)

(By unanimous consent, Mr. MITCHELL of Maryland yielded his time to Mr. BADILLO.)

(By unanimous consent, Messrs. STEED, CASEY, RISENHOOVER, ENGLISH, and BURLESON of Texas yielded their time to Mr. JONES of Oklahoma.)

The CHAIRMAN. The Chair recognizes the gentleman from Oklahoma (Mr. JONES).

The Clerk read as follows:

Amendment offered by Mr. JONES of Oklahoma: Page 7, beginning with line 16, strike out all down through line 10 on page 10, and redesignate title IV as title III, and sections 401 through 408 as 301 through 308, respectively.

Mr. JONES of Oklahoma. Mr. Chairman, the thrust of this amendment is to strike title III.

I want to say at the outset that I support the voting rights legislation. My history of support goes back to the original bill when I was a member of President Johnson's White House staff that helped pass the original Voting Rights Act. However, I think the purpose of the old Voting Rights Act was to make sure that there was no discrimination in voting with respect to any American citizen.

In reaching that goal, I think we must keep an eye focused on what is commonsense. Both titles II and III require, for example, among Oklahoma Indian tribes, that there will have to be a bilingual ballot printed for some Indian tribal language which has no written language, but only verbal language. At least, title II pertains to discrimination in voting.

I think in title III that same test does not hold true because there is no such causal connection between voter discrimination and language minority existing in title III. I think to say that there is, really stretches credulity.

Title III establishes these two tests: First of all, that if more than 5 percent of citizens of voting age and members of a single language minority have an illiteracy rate that has gone up and is higher than the national illiteracy rate, then the provisions of this act come into effect. "Illiteracy" is defined as failure to complete the fifth primary grade. The determination of this is not based on any discrimination at the voting polls, but is determined by the Director of the Census and shall become effective in any jurisdiction that comes under this provision, and it will come under the act once the Director of the Census publishes this in the Federal Register. Moreover, the bill says it shall not be subject to review in any court.

I submit, Mr. Chairman, that title III has no relation to the percentages of people who vote in any particular jurisdiction. It has no relation to any evidence of discrimination in voting. If a person is illiterate under the definition of this act, that is, has not finished the fifth primary grade, then what makes anyone believe that if he cannot read or write English, he will be able to be considered literate under the definition of this act in any other language? What shred of evidence is there to think that a Polish American who has not finished the fifth grade will receive better treatment under this act, this title of this act? How does an Indian who has not finished the fifth grade get a better chance to vote by being a member of a tribe that has no written tribal language?

Mr. Chairman, I suggest that what we are trying to deal with in title III can best be dealt with through the educational process. It does not pertain to voter discrimination. It is an educational problem. I would hope that we would put some commonsense back into this, delete this title from the bill, and then pass a very worthwhile bill which has worked very well during the past 10 years.

Mr. BADILLO. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment seeks to delete title III. Title III applies to all groups, not just to the Indians or those who may have an oral language only. This amendment must be opposed because the fact is that the Federal court decisions have held that the right to vote is more than an empty platitude. We are talking here about American citizens, and we say that where there is more than 5 percent of these particular groups that they shall be given the right to vote. In order to make it more than an empty platitude we require that the ballot be in the other language other than English. Where there are people who do not have a written language, obviously we cannot have a written ballot, but they would be given oral assistance. So that whether the people involved are those who speak the language only or are those who have a written language, assistance would be provided to these citizens so that they may cast an intelligent vote.

For that reason the amendment should be defeated.

Mr. EVANS of Colorado. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment, and I will do the best I can to explain my position in the very limited amount of time accorded to me.

In the Third Congressional District of Colorado, which I represent, if title III remains in the bill, although in my district we have no problem in regard to voting because of language, or lack of language skill in the English language, several counties there could be precluded, not just in my district, but others as well.

If people have a problem arising out of language they should vote against this amendment. But that is not the problem in the Third District in Colorado, nor in the State of Colorado.

For this reason I am going to vote in favor of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. JONES).

The amendment was rejected.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will read the commitee amendment.

The Clerk read as follows:

Committee amendment: Page 13, immediately after line 10, add the following:

SEC. 407. Title III of the Voting Rights Act of 1965 is amended to read as follows:

"TITLE III—EIGHTEEN-YEAR-OLD VOTING AGE

"ENFORCEMENT OF TWENTY-SIXTH AMENDMENT

"SEC. 301. (a) (1) The Attorney General is directed to institute, in the name of the United States, such actions against States or political subdivisions, including actions for injunctive relief, as he may determine to be necessary to implement the twenty-sixth article of amendment to the Constitution of the United States.

"(2) The district courts of the United States shall have jurisdiction of proceedings instituted under this title, which shall be heard and determined by a court of three judges in accordance with section 2284 of title 28 of the United States Code, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing and determination thereof, and to cause the case to be in every way expedited.

"(b) Whoever shall deny or attempt to deny any person of any right secured by the twenty-sixth article of amendment to the Constitution of the United States shall be fined not more than $5,000 or imprisoned not more than five years, or both.

"DEFINITION

"SEC. 302. As used in this title, the term 'State' includes the District of Columbia."

SEC. 408. Section 10 of the Voting Rights Act of 1965 is amended—

(1) by striking out subsection (d);

(2) in subsection (b), by inserting "and section 2 of the twenty-fourth amendment" immediately after "fifteenth amendment"; and

(3) by striking out "and" the first time it appears in subsection (b), and inserting in lieu thereof a comma.

Mr. EDWARDS of California (during the reading). Mr. Chairman, since this is a technical amendment, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. BUTLER

Mr. BUTLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUTLER: Page 14, immediately after line 19, insert the following:

SEC. 10. Section 3 of the Voting Rights Act of 1965 is amended by inserting immediately before "guarantees" each time it appears the following "voting".

Mr. BUTLER (during the reading). Mr. Chairman, since this is a technical amendment I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BUTLER. Mr. Chairman, it is my understanding that since this is a technical amendment that it has been agreed to by the other side.

Mr. EDWARDS of California. Mr. Chairman, if the gentleman will yield, the gentleman is correct; this is a technical amendment, and it has been approved by our side.

Mr. BUTLER. I thank the gentleman.

Mr. Chairman, at this time I would like to digress to dispel some doubts created by statements made by my colleagues from California, Mr. EDWARDS, and from Massachusetts, Mr. DRINAN. Each of these gentlemen, in revising and extending his remarks of June 2, 1975, inserted some matter into the RECORD with which I take issue. It is unfortunate that serious policy questions such as these were not discussed openly in debate on the floor, but rather were placed in the RECORD without the benefit of a full and open debate.

The first matter concerns section 402 of H.R. 6219 concerning attorney's fees. This section is plain on its face in permitting a court to award attorney's fees to the "prevailing" party. This term is plain on its face and should not even be susceptible to a contorted construction through resort to legislative history.

Nonetheless, my colleagues have stated that a prevailing party is to include an intervenor and that different standards are to apply to prevailing plaintiffs and prevailing defendants. In the entire record, through 13 days of hearings and in markup, these important matters were never discussed except when my colleagues assured me during markup that a prevailing defendant would be entitled to attorney's fees in the discretion of the court.

Mr. Chairman, it is disingenuous for these gentlemen to now contend that attorney's fees should be more liberally awarded to prevailing plaintiffs than to prevailing defendants. The statute is plain on its face and cannot be read to warrant a different standard in awarding fees. It is simply not clear that a plaintiff, or an organization that permissively intervenes under rule 24 of the Federal rules of civil procedure, is any less able to pay fees than a small political subdivision that may be the object of the suit.

Equally untenable is the proposition that minority rights are more important than States rights. Congress has struck a balance in this legislation that seriously infringes upon rights of the sovereign States as guaranteed under the Constitution. The majority has done so to balance 14th and 15th amendment interests of individuals against rights reserved to the States and the people. But once the balance is struck, if either side seeks to tip that balance in litigation and is unsuccessful in so doing, then the court can award attorney's fees to the winner regardless of whether he be a plaintiff or defendant, individual, or State.

I am completely aware of the court cases relied upon by my colleagues. They have taken opinions of liberal judges which have distorted congressional intent in the past, and now they seek to "bootstrap" this rhetoric into legislative history. All that the majority of this Congress can do to prevent this subversion is to pass a statute that is plain on its face and susceptible to but one construction, and that is precisely what we have done.

Mr. Chairman, the second issue on which I must focus is the topic of intervention. The statute is silent on this point because no intervention to any party is contemplated. Nothing could be more plain; It would be absurd to have to write into every statute that is passed

that no intervention is permissible, because rule 24 currently permits intervention only when a statute confers such a right, or when common questions of law or fact affect a litigant. This statute is plain on its face; no intervention is given either conditionally or as of right. Judges who have decided otherwise have misread the statute and are guilty of "judge made legislation."

We simply cannot permit our colleagues to seize upon this violation of the separation of powers and imply that this Congress agrees with such opinions. Thus, we have given no right of intervention in the statute with full knowledge that this will result in a restriction of the power of intervention under rule 24 of the Federal rules of civil procedure, and we have written in an attorney's fee provision that could not be plainer in its intention.

One last point remains to be made in this area. The gentleman from Massachusetts (Mr. DRINAN) inserted a statement in the record that intervenors could receive attorney's fees if it is a prevailing party. Nothing could be further from the intention of this body. No rights of the intervenor are at issue; the intervenor is not even a party and voluntarily enters the action. It is simply unintended that the losing party should have to be subjected to massive costs due to a large number of intervenors. In fact, as I have stated, the only intervenor that is envisioned is one who has commenced litigation with similar questions of law or fact. Let me add, in closing, that any intervenor admitted to the case cannot appeal the action. No right of appeal is given to anyone but the party losing the action.

Mr. MCCLORY. Mr. Chairman, I support the remarks of my friend Mr. BUTLER concerning the intent of this body on the issues of intervention and the awarding of an attorney's fee under the Voting Rights Act, as extended by H.R. 6219. I certainly believe that this body did not intend to create any right of intervention and indeed, the statute is silent on this point.

Also, the standard for awarding an attorney's fee to the attorney of the prevailing party should be uniform since important rights on each side of the lawsuit are at issue. I support this legislation insofar as it tries to compensate the winning party in a suit for having to defend its rights, but I am disappointed that some Members have tried to write into the record a perversion of this legislation that was never in the statute and never discussed in the extensive record on this act.

Mr. FLOWERS. Mr. Chairman, I concur in the remarks of my colleague from Virginia, Mr. BUTLER, concerning the issues of attorney's fees and intervenors. It certainly was not the intention of myself and several colleagues on this side of the aisle that intervention be afforded either permissively or as of right under this statute.

In fact, the issue was first mentioned in the CONGRESSIONAL RECORD on Monday, June 2, 1975, as part of a nonverbal insertion into the RECORD. Also, it is unthinkable that a court would ever look to legislative history on the issue of attorney's fees; the statute could not be more clear that an equal standard of awarding fees to the plaintiff or defendant, whoever prevails, is contemplated.

I might note that the use of the singular "attorney's fee" plainly means that only the attorney for the prevailing party is to be compensated; it was never intended that even if some court permitted intervention that the losing party should have to compensate the intervenor's attorney. Such a construction would cripple many small political subdivisions who are forced to defend these actions, so many of which make new and unforeseeable law.

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

Mr. BUTLER. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I am opposed to H.R. 6219, which would amend and extend the Voting Rights Act of 1965.

This legislation constitutes an unwarranted intrusion by the Federal Government into the rights and powers of the individual States. It sanctions further Federal encroachment into areas that traditionally and constitutionally have been the prerogative of State governments.

I would like to remind my colleagues that the 1965 act was viewed as a temporary piece of legislation. We recognized that registration and voting procedures were basically State responsibilities. Federal intervention in these States rights matters was supposedly justified because of its limited duration.

No such pretenses are made in the proposed legislation. The act would be extended for another decade. Literacy tests and similar tests would be permanently banned. In addition, coverage would be expanded to include new jurisdictions under the rubric of "language minorities."

The new trigger mechanism provides that the act shall apply in jurisdictions where less than 50 percent of the population registered or voted in the 1972 Presidential election and at least 5 percent of the citizens are members of a single language minority group. The group is defined as persons who are American Indians, Asian Americans, Alaskan Natives, and of Spanish heritage.

This means that States and political subdivisions would be legally required to provide ballots and other election materials in the language of a language minority group. The State of Alaska, for example, could be forced to provide ballots and voting information in 20 or more different native dialects, many of which are spoken rather than written.

How ridiculous. Compliance in some cases would be virtually impossible. Even where possible the cost to the States and localities would be prohibitively high.

The cost, however, is more than just a monetary one. The cost is also to our federal system of government. Under the pretext of assuring non-English-speaking minorities their voting rights the Federal Government would—without proven justification—be interfering with State election procedures.

Election procedures could be judged unsound simply because of voter apathy rather than because of any restrictions on the voting process. This cannot be justified. It is wrong to presume discrimination wherever there might be voted disinterest. It is wrong to treat such disinterest with Federal intervention.

The consequences are far reaching. The basic right of local governments to nation wherever there might be voter govern themselves as provided in our Constitution would be further undermined. Local jurisdictions would lose the right to make numerous decisions because of possible consequences to minorities within their jurisdiction. Local actions such as annexation, deannexation, the establishment and location of voting booths and the printing of voter information all could become Federal questions, subject to Washington, D.C., approval or Federal court review.

I urge my colleagues to vote against extending this act for another 10 years. I urge my colleagues to vote against extending this act to sanction further Federal invasion of State and local prerogatives. I urge my colleagues to defeat this legislation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. BUTLER).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. KREBS

Mr. KREBS. Mr. Chairman, I offer two amendments.

The Clerk read as follows:

Amendments offered by Mr. KREBS: On page 6, line 10, and on page 9, line 9, after "language", strike out the period and insert: "*Provided*, That the reasonable cost incurred in connection with the implementation of this subsection shall be reimbursed to said State or political subdivision by the Federal Government".

Mr. KREBS. Mr. Chairman, since these are actually two amendments, I ask unanimous consent that they may be considered en bloc.

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

There was no objection.

Mr. KREBS. Mr. Chairman, obviously my time is rather brief. As somebody who has served in local government for approximately 5 years, I am painfully aware of the problems that are faced in local government, at least in my State of California and, I suspect, if I may be so presumptuous, throughout this country.

From time to time those of us who have served in local government and others who have served in this House for a number of years have repeatedly heard the complaints of local government, officials of local government, about the imposition of Federal requirements without the funding to go with them, so I think we have an opportunity here to start a new approach that I think is long overdue and an approach that in my opinion is as fair as we should be in this House. I think that we can then go back to our districts and tell the local officials, the county officials, and the State officials,

that we have now for the first time approached the task of legislating on imposing Federal requirements with the point of view of also furnishing the funds to go with them. I think this is a politically attractive—if one may use that term—proposition. I think it is something long overdue. Certainly local governments throughout this country can no longer have the luxry of having Federal requirements imposed on them and then being asked to pick up the tab.

I urge all of the Members to please adopt this amendment. I think every county and city official will be deeply grateful to all of the Members, and the Members will be doing what, in my opinion, is the right thing.

Mr. EDWARDS of California. Mr. Chairman, regretfully, I strongly oppose the amendment offered by my friend, the gentleman from California. We have estimates of what this would cost. It is estimated in Westchester County, N.Y., it would cost a minimum of some $3,000. In Dade County, Fla., where there are bilingual materials and assistance, the cost only increases it by 7 percent. Revenue funds would be much more appropriate. It is not appropriate to use Federal funds in local elections anyway.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California (Mr. KREBS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. KREBS. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

The question was taken; and on a division (demanded by Mr. KREBS) there were—ayes 35, noes 53.

So the amendments were rejected.

The CHAIRMAN. The Chair recognizes the gentleman from Alabama (Mr. BUCHANAN).

Mr. BUCHANAN. Mr. Chairman, I rise in support of this legislation. I regret that for the third time the effort has been turned back to make it a truly national law. We still have a double standard of Federal law on this subject. But I would vote for this bill if it covered only my own beloved State of Alabama because it protects the rights of citizens of my State. He who truly loves the law and he who truly loves the Constitution must cherish, protect, and defend the rights of the people, which comprise the heart of the Constitution itself.

I would vote for it also because of what it has done for Alabama and our country, because it has helped to emancipate and liberate all of us, black and white. We have distinguished black public officials in Alabama and in many other States, whose election has been made possible, at least in part, by the existence of the Voting Rights Act of 1965.

The increased participation of black Americans in the political process through the protections afforded in this act, notwithstanding the fears and dire predictions concerning its effect on States like mine which were voiced in 1965, has hurt our State approximately as much as black participation has hurt Bear Bryant's football team or the University of Alabama's basketball team.

In 1970 the great and beautiful city of Birmingham, which it is my privilege to represent, was named an All-America City by Look magazine and the National League of Municipalities for its efforts toward becoming a place of hope and of opportunity for all its people. I am deeply proud of the leadership my city is now giving in this very important area.

Our country must continue to move toward the day in which every child born into this society can rise to his or her full stature, fulfill whatever gift God has placed within that person, and become the most and the best it is in that individual to be.

In this effort, I believe the South will lead the way.

The problems addressed by this legislation are national, not regional. Discrimination on an ethnic basis is, and has been, a problem North, South, East, and West. I would, therefore, be better were this a truly national law, that all Americans could be protected thereby. Nevertheless, I urge the passage of the bill in the confidence that it will help us in the continuing perfection of liberty and justice in the greatest, freest and best society the world has ever known, and which remains, in the words of Abraham Lincoln, the world's "last, best hope for human freedom."

The CHAIRMAN. The Chair recognizes the gentleman from Alabama (Mr. FLOWERS):

Mr. FLOWERS. Mr. Chairman, I rise in support of this legislation largely on the same basis as my colleague, the gentleman from Alabama.

I deeply regret that this Committee and this House apparently does not desire to extend the privileges of coverage of this legislation to all of our people. We in Alabama believe in the right to vote for our citizens and I intend to give voice to that by my vote here today.

The CHAIRMAN. Is there another Member who is on the list who seeks recognition? Otherwise, the Chair will recognize somebody with a privileged amendment which will use up all the time.

No other Member seeks recognition, so the Chairman recognizes the gentleman from Illinois (Mr. MCCLORY), a member of the committee, who has an amendment at the desk which was printed in the RECORD.

AMENDMENT OFFERED BY MR. M'CLORY

Mr. MCCLORY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McClory: On page 11, strike out line 3 and all that follows down through the end of line 24 and insert in lieu thereof the following:

"SEC. 207. (a) Congress hereby directs the Director of the Census forthwith to conduct a survey to compile registration and voting statistics: (i) in every State or political subdivision with respect to which the prohibitions of section 4(a) of the Voting Rights Act of 1965 are in effect, for every statewide general election for Members of the United States House of Representatives after January 1, 1974; and (ii) in every State or political subdivision for any election designated by the United States Commission on Civil Rights. Such surveys shall elicit the race, color, and national origin of each citizen of voting age and the extent to which such citizens are registered to vote and have voted in the elections surveyed.

"(b) In any survey under subsection (a) of this section no person shall be compelled to disclose his political party affiliation, or how he voted (or the reasons therefor), nor shall any penalty be imposed for his failure or refusal to make such disclosures. Every person interrogated orally, by written survey or questionnaire, or by any other means with respect to such information shall be fully advised of his right to fail or refuse to furnish such information except with regard to information required by subsection (a), with regard to which every such citizen shall be informed that such information is required solely to enforce nondiscrimination in voting."

Mr. MCCLORY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read, printed in the RECORD, and I will explain it.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

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

Mr. MCCLORY. I yield to the gentleman from Hawaii.

Mr. MATSUNAGA. Mr. Chairman, I rise in support of the bill.

Mr. Chairman, H.R. 6319 is one of the most important measures to come before the House in this Congress, and I urge its approval today.

It is hard, I know, for many Members to visualize the situation that obtained in 1965, when this legislation was first enacted. Intimidation and harassment of minority voters was widespread. Voting procedures were changed regularly to prevent minority votes from casting the decisive influence in elections.

I remember listening to President Lyndon Johnson calling on a joint session of Congress early in 1965 to assure equity in voter participation by minority citizens. Congress responded expeditiously, and the Voting Rights Act was enacted into law 5 months later.

As a result of this landmark law, minority citizens have been slowly attaining a more direct role in the electoral process. We can see direct evidence of that in the presence in this Chamber of some of our newly elected colleagues. But while the pressures and ill-intentioned practices have been reduced, they have not been eliminated. During the last 2 years the Justice Department has been called on to scrutinize, and has disapproved, certain changes proposed by states within the purview of the act. This is clear and convincing evidence that the need for the protection now provided has not passed.

In addition to continuing these protections, H.R. 6319 would make permanent the present ban on literacy tests as a voting prerequiste and, as has been discussed, extend the act's protection to language minority groups.

This is sound legislation, Mr. Chairman, and I commend the gentleman from California (Mr. EDWARDS), the gentleman from New Jersey (Mr. RODINO), and the other members of the Judiciary Committee, for their excellent effort in bringing this bill to the floor.

As a matter of assuring fairness in our electoral system, Mr. Chairman, we should pass H.R. 6319. I urge its overwhelming approval.

Mr. MCCLORY. Mr. Chairman, in due

course I will be offering a motion to recommit with instructions which will provide for the deletion of titles II, III, and IV of this legislation and for a simple 7-year extension of the Voting Rights Act in its present form. This will take care of the additional 2-year period beyond the decennial censuses, so a person who will be fearful about what may happen as far as congressional redistricting is concerned will be covered during that period.

With respect to the amendment at the desk, this would make mandatory the response during the censuses to the questions on race or color or national origin. In one part of the paragraph on page 11 the Congress mandates the Census Bureau to get this information. They have to get this information with regard to race and color and national origin every 2 years. In every 2-year period they have to get this information and report it. It is a mandate of the Congress.

Then the bill goes on to say that notwithstanding that requirement the information does not have to be supplied by the person questioned. We had this sort of situation before when we had the Federal Jury Selection Act, and initially we made this information voluntary as far as information about race and color, but we demonstrated there that if the information is not given and is not required to be given we cannot make any fair analysis as to the percentage of persons that fit into those categories, so we amended the law to make it mandatory.

I have a letter from the Bureau of the Census which says that to the best of their recollection they have never advised a person before asking a specific question that since the survey was voluntary they need not answer the next question. They said such a procedure would produce a lack of responses.

I had a computerized automatic study made in connection with the Jury Selection Act which showed that if 5 percent or more of persons elected not to respond to the questions, the statistics would be virtually useless.

Consistent with all good civil rights legislation and testimony we had on the Jury Selection Act which was provided by the General Counsel of the Civil Rights Commission at that time, we should require this information be given in order that the statistical information of the Bureau of the Census will be valid so that Congress may determine whether there continues to be voting discrimination in covered jurisdictions.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Chairman, the amendment of the gentleman from Illinois (Mr. McCLORY) has changed the bill. The bill does not now compel the disclosure of race, color, or national origin. The amendment of the gentleman from Illinois (Mr. McCLORY) would compel this disclosure under pain of fine or imprisonment. We think it is unnecessary. It is not good policy.

We have a copy of a letter, dated May 23, 1975, from Mr. B. Gregory Russell, Acting Chief of the current Population Survey Branch, indicating that the refusal-to-respond rate on the Current Population Surveys averages no more than 1½ to 2 percent. So there is no need for such stringent provisions.

There really is no evidence that this amendment is necessary. I do not think it is the very best policy to create new criminal law where none is necessary.

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

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

Mr. DODD. Mr. Chairman, I would also add that indication was given to us, as the author of this amendment in the subcommittee, that compulsion might, in fact, increase the amount of refusals. The current population survey, which does not mandate, as the gentleman pointed out, does not mandate compulsion, has indicated it was a good response and there is a feeling on the part of people responsible for the current survey that by requiring compulsion we would get a higher incidence of refusal.

Well, I would urge the Members to reject this amendment as unnecessary, there being no need for this kind of amendment or this kind of legislation.

Mr. EDWARDS of California. Mr. Chairman, I thank the gentleman from Connecticut.

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

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

Mr. McCLORY. Mr. Chairman, in the testimony given in 1969 by John H. Powell, Jr., the then general counsel of the Civil Rights Commission, there seems to be support for this amendment requiring mandatory statistics. He said it was necessary to get this information in a mandatory manner in order for the Federal Jury Selection Act to be effective.

May I say with respect to the requirement that a citizen reveal his national origin, if we did not mandate information to be given, it would be terribly difficult to determine whether the nonresponse would bias statistical estimates with respect to these various races, the Asian Americans, American Indians and Alaskans and so on.

Mr. EDWARDS of California. I thank the gentleman, but this amendment for a criminal provision has no place in this bill.

Mr. DICKINSON. Mr. Chairman, I rise in opposition to extending the Voting Rights Act of 1965. I feel I must warn my colleagues that if they vote for this extension they will only succeed in sending seven Southern States, including my home State of Alabama, to the back of the bus for another 10 years.

A vote to extend this questionable act to only seven Southern States is a travesty and an insult to our constitutional form of government. The Civil War has been over for 110 years. Is it not about time that vicious reconstruction of the South also stops?

Yesterday this body rejected amendments to this act which would make the act apply to all States; reduce the length of the extension to 5 years; or give the Southern States a chance to "bailout," that is, to prove they are being fair and no longer need the all-powerful Federal Government to ride herd over their voting procedures. Is it not a fact that Federal laws are supposed to govern all the people in all the States, not some of the people in some of the States? Furthermore, is there no prejudice or discrimination that needs to be corrected in Boston, or Detroit, or Chicago?

Yet, there are those who argue that extending this punitive Voting Act in the South for another 10 years would help eliminate discrimination in voting. Maybe so, but does the possible end justify the repressive means? I think not. To me, this Voting Act is far more discriminatory than any State voting laws. It seems justice, due process, and equal treatment under the law do not apply to the South. Indeed, it appears this Voting Act is only a cover designed to force the South to continue to atone for its alleged past sins.

I realize that I am probably wasting my time speaking to this body today, for with the current composition of the Congress a camel has a better chance of going through the eye of a needle than the South has of getting out from under the oppressive Voting Rights Act. Yet, I feel I would be remiss if I did not make my feelings known in this matter.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. McCLORY).

The amendment was rejected.

The CHAIRMAN. All the time has expired, except on privileged amendments.

The Chair recognizes the gentleman from New York (Mr. SOLARZ).

AMENDMENT OFFERED BY MR. SOLARZ

Mr. SOLARZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLARZ: Page 9, line 23, immediately after "heritage" insert the following: ", or who are members of a group which the Director of the Census determines has a mother tongue other than English".

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

Mr. SOLARZ. I yield to the gentleman from Connecticut.

Mr. DODD. Mr. Chairman, I rise in support of H.R. 6219 to extend the Voting Rights Act. I believe this bill which reflects 13 separate hearing sessions of the Subcommittee on Civil and Constitutional Rights, of which I am a member, is an important step toward insuring equal access to the ballot for all Americans.

There are a number of important provisions of H.R. 6219 which extend and expand the coverage of the Voting Rights Act. Not only does H.R. 6219 provide a 10 year extension of the act but it also expands coverage to certain areas not included in the original Voting Rights Act.

Provisions of H.R. 6219 insure protection of voting rights to previously uncovered language minority citizens. Title II protection will now cover such groups as American Indians, Alaskan Natives, Asian Americans, or Spanish heritage groups making it unlawful for the use of English-only election materials in jurisdictions where more than 5 percent of voting age population is comprised of a single language minority group.

In addition, H.R. 6219 would make permanent what is now a temporary

nationwide ban on the use of literacy tests and other devices, which have been used in the past to deny voting rights to some minorities.

Evidence of the act's effectiveness is the increase in minority participation in the political process. In those Southern States where the act originally was applied to remove voting barriers, the number of blacks registering to vote has risen markedly since the date it was enacted. The percentage difference between white voter registration and black registration in these areas has dropped from 44.1 percent to the current estimate of 11.2 percent.

Yet the full effects of a hundred years of voting discrimination has not been eradicated. There are still over 2.5 million unregistered blacks in the 11 Southern States.

While blacks have increased their representation at the local level, there are still no blacks holding statewide offices in the States currently covered by the act.

Testimony given at subcommittee hearings for H.R. 6219 has convinced me beyond a doubt that to allow the act and its strict enforcement procedures to expire now would cause a reversal of many of the gains in minority voter participation made in the past 10 years.

By extending and expanding the act, we also address the problem of the language-minority citizen and his or her special problems in registering and voting. In the course of hearings, the subcommittee found that conducting elections only in English was as much a barrier to voting by language minorities as are literacy tests, which are prohibited by the present act.

For this reason, title II of H.R. 6219 prohibits the conduct of English-only elections in jurisdictions where 5 percent or more of the population is a member of a single-language minority and less than 50 percent of the eligible voters actually voted in the Presidential election of 1972. Essentially, title II of H.R. 6219 expands the definition of "test or device" to include English-only elections, and prohibits their use in jurisdictions where it would infringe upon a citizen's ability to exercise his or her vote.

The following protections would apply in those jurisdictions covered as a result of title II: First, suspension of literacy tests and the prohibition of the conduct of English-only elections; second, section 5 preclearance of all new voting changes; third, Attorney General authority to certify service of Federal examiners; and fourth, Attorney General authority to certify service of Federal observers.

An area of the act that has recently grown in use is section 5. Under this section, the U.S. district court or the Attorney General is required to review all changes which covered jurisdictions proposed to make in their voting procedures.

Over the years, the number of changes in voting procedures which have been submitted for the Attorney General's review have increased from 1 in 1965 to 1,118 in 1971 and to 988 in 1974. The fact that the Justice Department has recently entered objections to voting changes from some seven States is evidence of the need to continue this preclearance mechanism.

These objections involved such things as at-large requirements, polling place changes, majority vote requirements, and increased candidate filing fees.

Each of these States failed to prove that their proposed changes in voting procedures would not have a discriminatory effect.

In my consideration of H.R. 6219, I have been firmly convinced that section 5 requirements have been largely responsible for the gains that have been achieved in minority voter participation. And, in my opinion, it is absolutely essential to insure that progress will not be destroyed through changes in voting procedures or techniques, in areas where there has been discrimination in the past.

In addition, the extension of the act to specifically include language-minority citizens will address many of the special problems these groups encounter with conducting English-only elections.

For example, one major hardship encountered by this group is the low literacy level among language-minority citizens. This low literacy rate aggravates the problem of dealing with registering and voting procedures that are only in English. According to 1970 census statistics, only 5.5 percent of the total population 25 years or older had less than 5 years of school, while figures for the same year indicate that 14.6 percent of the blacks and 18.9 percent of persons of Spanish heritage had less than 5 years of school.

For example, 80 percent to 90 percent of Spanish-heritage individuals in areas near the Rio Grande in Texas speak and write only in Spanish. Throughout the United States, it has been estimated that almost 50 percent of all persons of Spanish heritage have only a limited knowledge of written and oral English. Therefore, elections held only in English effectively rob these people of their most basic constitutional right.

Another important requirement of the act is section 403 which would require the Bureau of the Census to conduct minority registering and voting surveys. Title VIII of the Civil Rights Act of 1964 required that the Director of the Census collect, by race and national origin, voting and registration statistics in jurisdictions designated by the U.S. Commission on Civil Rights. The Commission made requests for title VIII surveys but the administration never requested and Congress never appropriated funds for their implementation.

Therefore, I offered an amendment that was adopted by the subcommittee and approved by the full committee which would direct the Census Bureau, after every congressional, to collect registration and voting statistics by race, color, and national origin in specific areas. These surveys are to be automatically conducted in every jurisdiction covered under the Voting Rights Act of 1965, as amended. The U.S. Commission on Civil Rights may designate the collection of data in other areas for any election.

Our recent deliberations on the extension of the Voting Rights Act illustrated vividly the lack of substantive data on voting by race and national origin. This data is very important for any future judgments in the area of voting rights.

Mr. Chairman, I believe that H.R. 6219 contains safeguards that are absolutely necessary in order to prevent discrimination in registering and voting against racial- and language-minority citizens.

I give my complete support to this legislation because I am convinced that without it, a large number of Americans will be denied their right to vote. Our Government works on the principle of active participation by all its citizens. By insuring this right to participate in choosing one's elected representatives, we also insure a better America.

Mr. SOLARZ. Mr. Chairman, members of the committee, most of the amendments which have been offered in the course of the last 2 days were clearly designed to weaken the bill. I want to call to the attention of the Members the fact that the amendment I am offering now is designed to strengthen the bill. It does not remove any of the groups that are protected by the bill; it does not in any way diminish the degree of protection for those groups which are covered under the bill are given by this act.

What it does attempt to do is broaden title III of this legislation in order to extend the protections and provisions to a number of groups that are not now included in it. Under the existing language of title III, American Indians, Asian Americans, Alaskan Natives, and those of Spanish heritage who constitute more than 5 percent of the population and which have an illiteracy rate higher than the national illiteracy rate are entitled to have the ballots and other official elective materials printed not only in English, but in their native language as well.

My amendment would add to the four groups already mentioned in the bill any other language minority which meets precisely the same criteria which the four groups already mentioned in title III have to meet as well. That is to say, it would add only those other language minorities which, first, constitute more than 5 percent of the population of a State or political subdivision thereof; and second, have an illiteracy rate higher than the national illiteracy rate.

Now, it is entirely possible that with such protections, no other language minority might qualify throughout the country to have their ballots printed in their language as well as in English. If, in fact, that turned out to be the case, then nothing would have been lost by adding this language, although I might say that if the language is added, we would have established in the law a principle of equity which says to every group that they are theoretically eligible for the protections of this legislation.

On the other hand, if it should turn out that somewhere throughout the length and breadth of this land there are other language minorities that, like the four already mentioned in the bill, constitute more than 5 percent of the population and which have an illiteracy

rate higher than the national illiteracy rate, then it seems to me as a matter of equity that such a group would be entitled to the same protection as the four language minorities already mentioned in title III.

The distinguished chairman of the subcommittee will probably tell us that the reason only four language minorities were mentioned in the bill, and none others, is that there was testimony during the course of the hearings indicating that only these four groups were discriminated against, and therefore they are the only ones who should be entitled to this bilingual protection. But, I would submit that in the words of title III, the operative indication of discrimination is the illiteracy rate of the group in question.

I would point out to the Members that if one of the four language minorities mentioned in title III, Alaskan Natives, for example, or Asian Americans, constitutes more than 5 percent of the population but has an illiteracy rate lower than the national illiteracy rate, then they do not qualify to have their ballots printed bilingually. Only if the illiteracy rate is higher do they qualify, and it seems to me they should be able to get bilingual ballots if they have an illiteracy rate higher than the national rate.

The other minorities ought to be able to get ballots as well. If they are French Americans in Louisiana, German Americans in Wisconsin, Italian Americans in Rhode Island, or Yiddish-speaking Americans in Brooklyn, as there are in my district, that meet the very same criteria as the four language minorities specifically mentioned in the bill, then it seems to me as a matter of fundamental fairness that we ought to print bilingual ballots for them as well.

A number of Members who voted against the Biaggi amendment, which was somewhat similar to mine, may want to know wherein my amendment differs from my distinguished colleague from New York. There is a fundamental difference between our two amendments. The Biaggi amendment dealt not only with title III, but with title II.

My amendment deals only with title III. In practical terms, the difference between title II and title III is that under title II of the bill, if the Biaggi amendment had passed, any language minority constituting more than 5 percent of the population in any jurisdiction covered by the Voting Rights Act would have to have bilingual ballots printed for them.

Mr. BADILLO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to this amendment.

As the gentleman from New York (Mr. SOLARZ) has stated, this is almost identical to the amendment offered by the gentleman from New York (Mr. BIAGGI), except instead of covering title II and title III, it covers title III only. It therefore suffers from the same defects with respect to coverage of title III.

Mr. Chairman, as was indicated previously, we have positive evidence that the other language groups mentioned by the gentleman from New York have a very high registration percentage. Once again, we found that the registration percentage of Germans was 79 percent; French, 72 percent; Russians, 85 percent; Italian, 77 percent; and Polish, 79 percent.

Mr. Chairman, I am astonished to hear that the district that is represented by the gentleman from New York (Mr. SOLARZ) has a Yiddish population that does not have a high degree of achievement; and if that is the case, I am also equally astonished that the gentleman did not come before the Judiciary Committee. But I cannot believe in the district in Brooklyn the gentleman is talking about that they have that high degree of illiteracy in the Yiddish population.

I think the amendment is clearly overbroad. I say that we should limit the bill to the groups for which testimony was presented before the committee, and for that reason I urge the defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. SOLARZ).

The question was taken; and on a division (demanded by Mr. SOLARZ) there were—ayes 36, noes 73.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. KINDNESS

Mr. KINDNESS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KINDNESS: Page 10, strike out lines 12 through 15 and redesignate succeeding sections of title IV accordingly.

Mr. KINDNESS. Mr. Chairman, the effect of this amendment is to eliminate section 401 of the bill, which, for the first time, adds the words "an aggrieved person," modifying those who could bring an action.

It has been the case that the Attorney General could bring an action under the Voting Rights Act, section 3. There are three different subsections dealing with the Attorney General's powers under the Voting Rights Act. That section of the bill, section 401, would now say, if the committee's language is accepted, that not only could the Attorney General go into court and ask for the extraordinary remedies that are provided by the Voting Rights Act, but also "any aggrieved person" could do so.

Mr. Chairman, we have already seen here this afternoon how broad the scope of the Voting Rights Act will be in the language of the bill as it is presently before us. We have already seen how many uncertainties there are in the way of dealing with the litigation. We have already seen that people will have to come to Washington to do it. The term, "any aggrieved person," being added to the burden of litigation, I think, is an undue burden to be added to the Federal court system.

But beyond that, the remedies that are so extraordinary as imposed by the Voting Rights Act are an aberration from our usual constitutional procedures. The powers of the States have been reduced or impinged upon in order to remedy a situation that existed, a situation that ought not to have existed. The power of the Attorney General to bring those actions in court is a power that ought to be reserved only to the Federal Government, it seems to me, if there is to be some lessening of the constitutional role of the States. It ought to be at least under the control of an officer of the Federal Government.

The effect of section 401 of the bill is to open up what we might call a category of class actions. I believe that if logic and reason are to be considered here today, we should consider that this law, the Voting Rights Act, is very different from the Civil Rights Act and others that provide similar opportunities for any aggrieved person to bring an action.

Mr. Chairman, we are talking about extraordinary remedies and we are talking about lessening the powers of the States. I would just urge that the Members support this amendment.

I will ask for a recorded vote if things look too bad, I suppose.

Mr. Chairman, the process that we have been through this afternoon, I think, clearly points out that the kind of litigation that is involved here ought to be under the control of a governmental authority at the Federal level.

It ought not to be so extended as to make this an opportunity for massive litigation, and that can occur in each Member's district, in every district in the country.

Every Federal district court will not be deciding these issues. It will be the U.S. District Court for the District of Columbia, and its docket could very well be terribly overloaded.

I urge that the Members support this amendment.

Mr. Chairman, the one thing I would like to leave the Members with on that point is this: We are talking about control governmentally. If there is anything wrong with the way that section 3 has been used by Attorneys General in the past, that is something that can be controlled at the Federal level and this Congress can have an effect on it to some degree. This Congress cannot in my view responsibly extend that function under section 3 beyond the Attorney General to "any aggrieved person."

Mr. EDWARDS of California. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this issue was seriously debated in the subcommittee and in the committee, and it was turned down. We did not accept the amendment offered by the gentleman from Ohio (Mr. KINDNESS).

This is a very important provision of the bill. It in effect makes it possible for aggrieved persons and individuals who suffer a severe discrimination in voting to go into a Federal court and to have the judge at his discretion provide relief, the same kind of relief that the district court judge could afford the U.S. Attorney General.

Mr. Chairman, I urge a "No" vote on the amendment.

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

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

Mr. BUTLER. Mr. Chairman, would it

be fair to say that a person living in an uncovered State—let us say Oklahoma—who feels aggrieved and that he has been discriminated against under the Voting Rights Act can now go into the Federal court and ask the Federal court to issue an order which would require that State to come under the preclearance provisions which are now affecting only the covered States?

Is it fair to say that what this does is to give an individual the right to bring his State under all the sanctions that are now only available if the Attorney General files an action under section 3 or the State is otherwise covered under this legislation?

Mr. EDWARDS of California. It is fair to say that this bill, unless the Kindness amendment is adopted, would so permit an aggrieved person to go into Federal court, and at the judge's discretion have the benefit of the remedies of section 3 of the act.

Mr. BUTLER. If the gentleman will yield further, would it not also be fair to say that once the court takes jurisdiction under the objection of an aggrieved person, under the legislation there is nothing which terminates the jurisdiction of the Federal court thereafter except the discretion of that Federal court itself? Is that a fair statement?

Mr. EDWARDS of California. Yes, and I think it is entirely appropriate.

Mr. BUTLER. Then it would be fair to say that if the judge of the Federal court felt that it would be appropriate, that the Federal court could retain jurisdiction and could bring a State under the act and the Federal court could retain this jurisdiction indefinitely thereafter; if one did not feel that this was appropriate then would it be appropriate to vote for the Kindness amendment?

Mr. EDWARDS of California. Yes, and I firmly believe that it would be entirely appropriate, and I believe that is what the Federal court would do, retain jurisdiction until the matter was decided.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. KINDNESS).

The question was taken, and on a division (demanded by Mr. KINDNESS) there were—ayes 41, nays 117.

So the amendment was rejected.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, over the past several weeks, some of my colleagues have raised again the question of the fundamental fairness of requiring jurisdictions covered by the Voting Rights Act to carry the burden of demonstrating to the satisfaction of either the Attorney General or the District Court of the District of Columbia that the implementation of any different "qualification, prerequisite, standard, practice, or procedure" affecting the right to vote "does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race, color or national origin"—what has been called the bitter medicine of voting rights laws.

The first observation that must be made is that, in enacting this legislation 10 years ago, Congress saw the need to defeat the "ingenuity and imagination of those determined to circumvent 15th amendment guarantees." In the first constitutional test of this legislation, South Carolina against Katzenbach, the Supreme Court upheld the wisdom of this burden-shifting approach:

> Congress has found that case-by-case litigation was inadequate to combat widespread and persistent discrimination in voting, because of the inordinate amount of time and energy required to overcome the obstructionist tactics invariably encountered in these lawsuits. After enduring nearly a century of systematic resistance to the 15th amendment, Congress might well decide to shift the advantage of time and inertia from the perpetrators of the evil of its victims.

In every major decision interpreting the approach taken by section 5 since including the Perkins, Allen, and Georgia decisions, the Court has squarely affirmed it. There can be no quarrel as to the legal soundness of the burden-shifting mechanism, in my judgment; Anglo-American law has traditionally embodied such a doctrine in tort law to protect the opportunity of an aggrieved party to vindicate rights when wronged, when that party—because of his comparative lack of sophistication and resources—is at the mercy of the wrongdoer. Surely we can protect the voting rights of minority citizens with the same vigor that we defend ourselves from stray surgical sponges.

Similarly, the necessity for extending the suspension and preclearance provisions of the act to covered jurisdictions for an additional 10 years has been questioned. Opponents of this extension have characterized these procedures as unfair, in that they unduly stigmatize those jurisdictions which have made a good-faith effort to eliminate discrimination in voting over the life of the act. The record compiled by the Subcommittee on Civil and Constitutional Rights, the U.S. Commission on Civil Rights and the Department of Justice vividly demonstrates the need for continued vigilance in protecting the voting rights of all citizens. For example, although the number of changes submitted to the Attorney General for review under section 5 now exceeds 4,000, 3,898 of those changes were submitted by 12 covered jurisdictions only in the last 4 years. Of the 163 objections interposed by the Attorney General to the implementation of those changes, 141 were made during the past 4 years.

These recent objections—focusing primarily upon at-large requirements, polling place changes, majority voting requirements, staggered terms, increased candidate filing fees, redistrictings, switches from elective to appointive offices, multimember districts and annexations—clearly bespeak the continuing need for the section 5 preclearance mechanism, especially at a time when the Court-fashioned doctrine of "one person, one vote" has, ironically, created new opportunities to disenfranchise minority voters. The limited and fragile success already won under section 5 should not be squandered by removing coverage at a time when it is most necessary.

By the same token, testimony taken by the subcommittee over 13 days of hearings suggests that physical as well as legal barriers are still thrown in the way of some citizens seeking to exercise their franchise. Incidents of threats, intimidation and harassment at the polls are a painful reality that in and of themselves support the continued authority of the Attorney General to certify for appointment Federal poll watchers and registrars.

Much of the dissatisfaction expressed over H.R. 6219 as reported centers upon the alleged unfair treatment afforded covered jurisdictions by not liberalizing procedures whereby they may escape coverage under the automatic triggering mechanism by demonstrating that no discriminatory practices or procedures are in effect at the time of application. I speak of the "bailout" provisions built into the original Voting Rights Act to assure against overbroadness. Proponents of language which would relax present requirements contend that, under the result reached by the Supreme Court in the Gaston County case, those requirements have been rendered impotent. This position ignores the fact that jurisdictions in Alaska and New York have successfully sued for relief, invoking the supposedly inadequate current "bailout" provisions, since the Gaston County decision. In any event, the alternatives proposed to established law suffer from a number of defects; for example, the standard under which criteria for escape are to be tested is one of "reasonableness"—a yardstick that has not had the benefit of examination or application in this area of the law and which is unsupported by available evidence. As the Civil Rights Commission has already indicated, these proposed "bailout" substitutes may "create new and difficult problems of standards, procedures, and management."

Another change in H.R. 6219 has been advanced which has been labeled as progressive because it makes the Voting Rights Act permanent in the law, rather than merely extending its life an additional 10 years. While this idea is generally commendable, its particulars fall short, unfortunately, of what Congress ought to do to make this legislation meaningful in perpetuity. The history of the Voting Rights Act itself clearly demonstrates that a mere 2-year coverage period is inadequate in practice to erase demonstrated voting inequities. Moreover, by ignoring less evident techniques used to effect discrimination, such as switches from district to at-large elections and discriminatory annexations, this amendment would rob distinct racial and language minorities of the equipment they need to combat subtle attempts to dilute their voting strengths. Indeed, the thrust of this proposal would be to offer such identifiable groups the Hobson's choice of accepting such dilutions or staying away from the polls in order to trigger the coverage formula. Such a result is antithetical to the extent with which Congress enacted and extended the Voting Rights Act.

Despite demonstrated and irrefutable evidence of the need to do so, opponents of H.R. 6219 have complained that expanding the boundaries of the act's coverage to include Spanish and Native Americans and other bilingual minorities to enable them to exercise their right to vote unhindered by arbitrary prerequisites constitutes a burden covered juris-

dictions should not be made to bear. I submit that the dual guarantees of the 14th and 15th amendments are not qualified by expense or inconvenience. The fact that the lack of equal educational opportunities for some citizens throws a roadblock in their way when given the chance to exercise those guarantees is one too evident to ignore; indeed, the demonstration of the absence of such opportunities led the Supreme Court to strike down literacy barriers in the Gaston County case. This legislation, by recommending a permanent ban on literacy tests—which now exist in 12 States, including Connecticut, Delaware, and New York—gives Congress a unique opportunity to further the designs of those two amendments to the Constitution. As Mr. Justice Douglas pointed out in the case of Oregon against Mitchell, Congress:

> . . . can rely on the fact that most States do not have literacy tests, that the tests have been used at times as a discriminatory weapon against some minorities, not only Negroes but Americans of Mexican ancestry, and American Indians; that radio and television have made it possible for a person to be well-informed even though he may not be able to read and write.

There are broader and much more serious implications which may result from ignoring present realities of discrimination in voting and its short-term effects upon ethnic and language minorities for the sake of convenience, ones which go to the very essence of democratic government. Simply put, electoral democracy in this country is shrinking. Voter turnout has declined dramatically since 1960 when 64 percent of the total population voted in the presidential election. In 1972, only 55.6 percent of eligible voters went to the polls. 58 million Americans of voting age stayed home that year, a staggering 42.6 percent of the voting-age population. In addition, 44 million Americans of voting age failed to register to vote in 1972, 32.4 percent of the eligible voting age population. Events in our Nation's recent past should serve as a warning of the dangers of millions of our citizens being excluded or alienated from decisionmaking processes.

Imagine how different this country would be—how different our priorities, policies and spending would be—if, as is the case in western European countries, 75 to 90 percent of eligible voters went to the polls. Given our shrinking electorate and the fact that racial and language minorities are significantly under-represented in our political processes, those who do vote—and who are disproportionately better educated and more economically secure—are able to exert an influence on the agenda of American policies in the direction of narrower class and cultural interests that is out of proportion to their true popular strength. Regardless of the factors that kept almost 60 million Americans away from the polling places in 1972, any legislation that serves to broaden the participative base in our electoral democracy promises to have a salutary effect on the direction of public policy.

As this Nation prepares to celebrate its 200th year of existence, it is not enough to note that some latent progress has been made toward securing the full blessings contemplated by the 15th amendment. It is not enough that the voter registration gap between blacks and whites in seven Southern States has been narrowed from 44 to 11 percent; it is not enough to say that there are now 591 more black elected officials in the South than there were 10 years ago. It is time to recognize and give legislative credence to the fact that America is truly a diverse society—culturally and linguistically, as well as economically. Not every American speaks only English. Not every citizen is middle class and white. Is it not time to translate this diversity, as Canada has successfully done in the past several years, into meaningful political expression and representation? I believe that the answer to that question is within our grasp today. We must make every effort to answer it correctly.

Mr. STOKES. Mr. Chairman, I rise in support of H.R. 6219 which amends and extends the Voting Rights Act of 1965. This legislation, like none before it, has effectively begun the process of guaranteeing the most fundamental of those essential rights descriptive of any truly democratic society.

It is designed to allow and facilitate the registration of all voters; to permit all citizens to vote equally and impartially and without discrimination; and to permit minority candidates to run with a reasonable hope of access to public office.

Since 1965, about 1.5 million blacks in the South as a whole have become registered voters—about 1.1 million in the covered States. The percentage of eligible blacks registered in the seven covered States rose from about 29 percent in 1964 to 56 percent in 1972, and the gap between black and white registration decreased from 44.1 percentage points to 11.2 percentage points.

However, it is estimated that as many as 2.5 million eligible blacks in the South are still not registered, and that black registration is about 15 points below the percentage of white registration.

Black voter turnout in the South has increased in terms of percentages and numbers of registered voters since 1965. It is apparent that black voter turnout in the South is lower, percentagewise, than white turnout.

According to a U.S. census survey of the voting age population, 47.8 percent of blacks in the South reported that they voted in the 1972 election, compared to 57 percent of whites.

The data clearly describes real progress but it remains principally important to remember that we are still in the early stages of reversing the results of centuries of discrimination. If the temporary provisions are not extended, the likelihood is that we would find ourselves set back to the starting point.

It is significant to note that 105 years after the ratification of the 15th amendment and 10 years after passage of the Voting Rights Act, 2½ million blacks in the South remain unregistered today. Though comprising large segments of the population in each of the covered seven States: Mississippi, 37 percent; South Carolina, 31 percent; North Carolina, 22 percent; Virginia, 18 percent: et cetera. No blacks hold statewide office in any of them. The black representation in the State legislatures does not approach the black proportion of the voting age populations in the respective States.

In 1965, there were 72 black elected officials in the 11 Deep South States. Today, there are 1,587—including 1,114 in the seven States specially covered by the Voting Rights Act.

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

In the 101 black-majority counties blacks hold a majority of seats in the county governments of only six counties.

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

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

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

1965	72
1966	159
1968	248
1969	388
1970	565
1971	711
1972	873
1973	1,144
1974	1,307
1975	1,587

Whites throughout the South are still very much in control of the electoral machinery, and the results are ever present.

Verified reports abound detailing accounts of lost ballot boxes, inconvenient registration hours, and inaccessible locations for voting and registration. The results: Blacks remain underrepresented even in the 84 southern counties where blacks comprise voting age majorities.

For these reasons among others, the real implications of a congressional failure to extend the special provisions are frightening, more especially in view of one approaching development. Based on the 1980 census, by 1985, all States and many local jurisdictions will have redrawn lines for representative subdivisions altering constituencies from town council districts to congressional districts. Mr. Chairman, I think none of us here has any illusions about the outcome of this redistricting process should the section 5 preclearance requirements be removed. The small gains that blacks have made to date could be all but wiped out by those remaining unreconstructed whites in power who still resist the command of the 15th amendment.

A similar result will obtain, Mr. Chairman, if the national ban against the literacy test is not continued. By March 1975, 12.9 percent of blacks over 25 years of age had received less than 5 years of formal education. For Mexican Americans the figure was 27.2 and 19.5 percent overall for Spanish-origin populations. As discouraging as these measurements may be, illiteracy is hardly a disability peculiar to blacks and Spanish-speaking Americans. In absolute numbers, more whites living in America are functionally illiterate than are minority group members.

Mr. Chairman, it is safe to assume that if the literacy test ban is not extended, millions of voting age Americans—blacks and Spanish-speaking citizens disproportionately—would again be excluded from participating in our democratic system, the same system that in the first instance failed in its responsibility to provide all Americans alike with the most fundamental of learning skills, the capacity to read and write.

Ten years ago, when the original Voting Rights Act was first passed, it was designed to meet the needs of minorities who were being denied the right to vote. Since then, the situation has improved greatly in those areas which the act was designed to affect. Yet, the need for the bill is still evident, for new areas have been discovered which need the special protection and benefits which the bill, as originally drafted, does not address.

Mr. Chairman, if we are to increase the voter participation of minority Americans, strong congressional action is needed. We must insure full free access to the polls for all. H.R. 6219 recognizes the special needs of many American citizens in exercising their right to vote, and I urge that H.R. 6219 be adopted—without weakening amendments.

Mr. EDWARDS of California. Mr. Chairman, some questions have been brought to my attention concerning two counties in Oklahoma which are covered under title II of H.R. 6219 because of their population of Choctaw Indians. It has been indicated that the American Indians in these two counties, mainly Choctaws, use English as their dominant language and continually have had high rates of voter participation.

If these factors are indeed the case, there would seem to be no problem for these two counties to prove that no "tests or devices" including English-only elections have been used in a discriminatory fashion in the past 10 years. If the Choctaw Indians in these counties do, indeed, speak English and have had generally high voter participation, then it would surely seem that these two counties would be able to easily qualify for exemption from the act.

It has been indicated, in fact, that the members of the Choctaw Tribe no longer currently use the Choctaw language. Since both titles II and III of H.R. 6219 mandate bilingual elections, some concern has been expressed on how covered jurisdictions which include American Indian populations where native languages are not currently used, will comply with the act. We have made clear in the committee report that impossibility of performance in the case of oral-only languages would mean that the bill imposes no mandate for bilingual printed materials. Instead it is intended that the bill create, in such instances, an affirmative obligation to provide bilingual oral assistance in all stages of the electoral process. Further, if an American Indian language is historic in nature and is not used by the population of the relevant tribes, then it is obvious that not even oral assistance in such nonspoken language cases will be required. Moreover, it is obvious that the Attorney General would not enforce a bilingual mandate in such situations.

Mr. ROYBAL. Mr. Chairman, the evidence in support of H.R. 6219 documents the denial of the franchise to language minority groups throughout the United States.

In my own State of California, the more than 3 million Mexican Americans continue to experience serious impediments to registration and voting participation. The discriminatory practices include at-large school board elections, redistricting, registration, and voting irregularities, changes in polling places and lack of bilingual registrars and election officials. The total effect of these practices has been a negligible level of representation for Mexican Americans.

Overall, Mexican Americans comprise approximately 16 percent of California's total population and 12 percent of its voting age population, but yet hold only 0.7 percent of the elected offices in the State. Further, Mexican Americans have only one Federal representative—elected in 1963—out of a total of 43; two State senators out of 40; and four State assemblymen out of 80.

Of particular concern is the rural experience. In an August 1971 report, the California State Advisory Committee to the U.S. Commission on Civil Rights found a serious lack of Mexican American deputy registrars in the rural areas. Citing several voting obstacles, including intimidation, the Civil Rights Advisory Committee concluded that "rural communities generally appear to offer inadequate opportunities for Mexican Americans to participate in governmental functions." Similarly, a 1971 study by the Civil Rights Commission showed that in rural counties such as San Joaquin, Madera, Colusa, Kern, Monterrey, Santa Barbara and Tulare, Mexican Americans had a combined total of 1.2 percent of the governmental officials, although their population in these counties ranged from 16.7 to 44.9 percent.

More recent incidents reinforce the 1971 findings of voting abuse in the rural areas. Staff members of the California Rural Legal Assistance point to a number of voting problems, including at-large school board elections and registration difficulties. In the rural communities we find that at-large school elections effectively deny Chicanos representation on the board, even though they constitute a substantial part of the population. The point is that if school boards were elected by district instead of at-large, Chicanos would likely gain two or three seats.

For example, Chicanos make up 16.8 percent of the Kern County population, 26.2 percent of Tulare, and 24.7 percent of Kings; yet they represent a less than 2 percent of the board membership for these counties. In the rural community of Shafter—Kern County—it is reported that Mexican Americans have no board representation, although they comprise 40 percent of the population. In the community of Delano, the result is the same: No Chicano representation even though they comprise approximately 40 percent of the population and over 50 percent of the school enrollment. In Arvin, Mexican Americans had no board representation until 1972, even though they constituted more than 50 percent of the school enrollment. In 1972 they were successful, finally, in gaining a seat on the five-member board.

Similarly, Mexican Americans have been denied board representation in many of the communities located in Imperial, Santa Barbara, and San Luis Obispo Counties. In Guadalupe—Santa Barbara County—for instance, Chicanos comprise 75 percent of the population, but are denied representation on the board. In Westmoreland—Imperial County—they comprise 40 percent of the population, but have no board representation. The same pattern exists in Lucia Mar—San Luis Obispo County—which had already been investigated in 1973 by the California State Advisory Committee to the U.S. Commission on Civil Rights for discriminatory practices in the education of Mexican American students.

Besides at-large election obstacles, Mexican Americans must face the reluctance of county officials to employ bilingual registrars and election officials. There have been reports that county officials have told Chicanos they were not needed as registrars since the county already had a sufficient number—almost totally Anglo and English speaking. Only in the town of Delano have Mexican Americans been somewhat successful in increasing the number of bilingual registrars. But even there there has been virtually no change in the selection of voting officials.

The result has been the maintenance of an Anglo-only registration and election system within these communities.

In Westmoreland, Mexican Americans comprise 40 percent of the population. In a recent board election in that community, Spanish-speaking voters were unable to obtain assistance from election officials to operate the voting machines, because no one spoke Spanish. When a bilingual observer raised the issue with these same officials, she was told simply that "it was not necessary."

In Heber, Chicanos comprise 80 percent of the population, and yet receive virtually no bilingual assistance. At one polling place, a staff member of the California Rural Legal Assistance was told by an election official who had Spanish-speaking skills that she was instructed by the county clerk not to speak Spanish because it was against the law to do so.

In Niland, an election official insisted that "the Spanish people who do not speak English should not have a right to vote at an election." She added, "If the Spanish people do not speak English, they should be kicked back into Mexico and not be allowed to come back."

In one case, in the town of Arvin, a Spanish-speaking woman was refused an opportunity to register on grounds that she could not speak English.

In another community, San Ysidro, a Spanish-speaking voter asked for assistance in operating the voting machine. Since none of the Anglo election officials spoke Spanish, she obtained help from another Mexican American voter. The woman who assisted her asked the officials why they had failed to provide bilingual officials. The response was that "this is America, and if the woman wanted to vote, she should know how to speak English."

The intentional failure to provide bi-

lingual assistance has serious repercussions in voter turnout among Mexican Americans and other Spanish-speaking citizens. It creates a negative and hostile setting—one of embarrassment and discouragement for Spanish-speaking voters. But why should they suffer embarrassment and harassment because they speak only Spanish or very little English? Why should these voters be turned away because Anglo officials are unable to speak Spanish, have difficulty in finding Spanish surnames, and resent helping voters in another language? Why is it that in El Centro, where Mexican Americans make up 40 percent of the population, a Spanish-speaking woman voting for the first time in her life must experience chagrin because no one could explain to her in Spanish how to operate the voting machine?

At one polling place in Calexico, Anglo officials denied several Spanish-speaking persons an opportunity to vote, supposedly because their names did not appear on the list. One turned-away voter related that on his way home, a friend stopped him and asked if he had voted. When the man explained what had happened, his friend, who was bilingual, accompanied him back to the polling facility and insisted that the individual's name was listed. The election officials finally relented and allowed the person to vote.

The California Rural Legal Assistance reports that many Spanish-speaking voters will not risk going to the polls unless accompanied by friends. The reason is that they believe there is less likelihood of being embarrassed or harassed.

Other complaints focus on the lack of adequate voting facilities and changes in polling places without proper notice. In Shafter, Chicanos complained that they had received voting packets from the county instructing them to vote at a nonexistent location. They were never informed of the correct address.

Other Chicanos had received voting packets that informed them to vote at a certain school where they had usually voted in the past. However, when they attempted to vote at the school, they were unable to locate the polling facility and saw no signs indicating a change to another location on the school grounds. Even after an intensive search, they were unsuccessful in finding the location.

In Delano, Mexican Americans encountered a number of serious voting obstacles during a recent school board election. The first problem involved a voting facility in the west side of town where half of the population, mostly Mexican American, resided. At this location, Chicano voters experienced long lines involving usually an hour wait. Although the facility contained eight voting booths, only one was being used at a time apparently because of the inability of the Anglo election officials to quickly process the Spanish surnames and communicate in Spanish. A staff member of the California Rural Legal Assistance witnessed instances in which several voters decided not to wait and left.

Another incident involved threats made by Anglo election officials to deny a Mexican American woman an opportunity to vote, unless she removed her Farm Workers Union button. She refused and insisted on her right to vote, and was finally permitted to do so.

Aggravating these problems has been the absence of bilingual assistance, despite passage of a 1973 law mandating bilingual registration efforts. The law requires county clerks and registrars to take steps to recruit bilingual registration officials in precincts where 3 percent or more of the voting age residents lack sufficient skill in English to vote without assistance. In addition, an earlier law, effective in 1971, required the posting of a facsimile copy of the ballot in Spanish at the polling place.

Both provisions have not been carried out effectively. A special Library of Congress report on "Bilingual Voting Assistance in the Southwest"—dated February 21, 1975—points out that a Secretary of State official admitted the office had little power to "administer" the State's election process. This means that the administration and enforcement of the election laws, including bilingual assistance, are left to each county's discretion.

A 1974 study by the California Secretary of State found that, on the basis of a poll of all 58 counties—

> The vast majority of County Clerks and/or Registrars of Voters in this state have not responded to the mandate of section 1611 [bilingual registration assistance] and have made little progress in assisting voters who have difficulty in voting in English.

"Most disturbing of all," the report stressed, "was the lack of response to the questionnaire from counties with statistically large numbers of Spanish-speaking and other non-English-speaking ethnic groups." It cited 15 counties with over 10 percent Spanish language populations failing to respond including Imperial, 46 percent; San Benito, 45 percent; Tulare, 26 percent; Fresno, 25 percent; Merced, 23 percent; Monterey, 21 percent; Ventura, 20 percent; San Joaquin, 18 percent; Santa Clara, 18 percent; Kern, 17 percent; Riverside, 17 percent; Santa Barbara, 17 percent; Yolo, 17 percent; Almeda, 16 percent; and San Luis Obispo, 11 percent.

Other counties with 10 percent or more Spanish language responded but failed to find precinct areas needing bilingual assistance although some like Kings, 25 percent, and San Bernardino, 16 percent, have substantial Spanish-speaking populations.

Some of the worst practices affecting Chicano populations have been statewide gerrymandering schemes. These practices have provoked protests from the Mexican-American communities as abridging their right to vote and receive fair representation. In its 1971 plan the State legislature failed to form Mexican-American districts in areas where community patterns lent themselves naturally to that formation. In the Los Angeles area, for instance, there are a number of contiguous Chicano communities, including unincorporated east Los Angeles, where gerrymandering has diluted their vote and level of representation. The combined Chicano population for these adjacent communities has been estimated at 870,000.

The 1971 plan attempted to divide this Mexican American enclave into:

Eight assembly seats with no district having more than 25 percent Chicano registration;

Four Senate seats with three under 18 percent Chicano registration and one with 26 percent; and

Six congressional seats with only one showing as high as a 21-percent Chicano registration.

The 1971 plan mirrored, to a great extent, earlier reapportionment schemes in undermining political representation for Mexican Americans. The 1965 plan splintered the Chicano communities in the Los Angeles area into 10 State assembly seats and five State Senate districts—not one having more than 30 percent Chicano registration. The 1967 plan divided the communities into six congressional seats with only one as high as 23 percent Chicano registration and the other five less than 20 percent.

In their analysis of California's gerrymandering practices, both the California Rural Legal Assistance and the Mexican American Legal and Educational Defense Fund concluded that—

> The architects of the reapportionment were careful to keep the Chicano population in any district small enough so that no incumbent need fear a challenge from a Chicano.

In 1973, the State supreme court stepped into the reapportionment issue after the legislature and the Governor failed to reach agreement. As a result, the court ordered the implementation of its own plan. On first glance the court plan appears to provide additional opportunities for Mexican Americans to increase their level of representation. However, this change of events will not occur unless the prevailing pattern of voting and registration abuse which I have discussed today is eradicated.

Another problem area that must be covered is the lack of representation on school boards elected at-large. This is true not only of rural areas, as I have already mentioned, but of urban communities as well. For example, in Los Angeles County, Mexican Americans continue to be underrepresented on these educational boards.

According to 1975 school data being compiled by the Mexican American Legal and Educational Defense Fund, there are some 2 dozen school districts in Los Angeles County which have failed to provide adequate Chicano representation. A half a dozen districts have between 25 and 35 percent Mexican American enrollment but no Chicano representation on their boards. Four others have over 50 percent Mexican American enrollment but only one Chicano representative on what are usually five-member boards. There are a dozen or so districts which have between 10 and 20 percent Mexican American enrollment but, again, lack Chicano representation.

While I have focused on the California experience, there is little doubt that extensive evidence also exists for the State of Texas. Testimony before the Judiciary Committee documents voting abuses such as widespread gerrymandering, systematic use of at-large election dis-

tricts, inaccessible polling places and use of numbered paper ballots requiring voter signature. Other abuses involve annexation of only Anglo areas but not contiguous Chicano neighborhoods, redistricting, and shifts from single-member to at-large elections.

The impact of these practices can be measured by their effect on political representation. In Texas, Mexican Americans comprise over 18 percent of the total population and over 16 percent of the voting age, but only hold 2.5 percent of the elected offices.

Similarly, in Colorado, Mexican Americans constitute 13 percent of the total population and over 10 percent of the voting age, but less than 2 percent of the elected officials. Despite the fact that nine counties in Arizona are presently covered under the act, Mexican Americans still represent only 4.4 percent of the elected officials, even though they comprise 18 percent of the total population and 15 percent of the voting age.

New York and Florida also show disparities in Latino representation. In New York, for instance Puerto Ricans hold less than one-tenth of 1 percent of the elected offices although they make up over 5 percent of the voting age.

Mrs. BURKE of California. Mr. Chairman, I rise in support of H.R. 6219 to extend the Voting Rights Act of 1965 for an additional 10 years, and to extend coverage to Spanish-speaking and other language minorities. The Voting Rights Act has been extremely effective in bringing blacks into the political process, and needs now to be extended and expanded to include language minorities.

The Voter Registration Act does work. In 1964, just prior to passage of the act, only 94 blacks were in State legislatures. Today 270 blacks are members of State legislatures. In March 1965, 73.4 percent of the eligible white population of seven Southern States were registered to vote. Only 29.3 percent of the black population was registered. The "gap" was 44.1 percent. Current estimates have sharply reduced that gap to 11.2 percent; 56.6 percent of the black population is now registered in these States.

The number of black elected officials is another clear indication of the success of the Voting Rights Act. The number of black elected officials in all levels of government stood at 1,469 in 1970. Today that number is 3,200. The Voting Rights Act has clearly had a positive effect on the participation level of black citizens in their government, but much remains to be done. As heartening as the doubling in number of black officials is, the fact remains that less than 1 percent of the elected offices in this country are filled by blacks. There is a definite need to extend the act for 10 years.

The January 1975 Census Report indicates that 38 percent of the total population remains disenfranchised because of nonregistration. The percentages of blacks registered remains much lower than that of whites. The registration percentages for Americans of Spanish origin are 29 percentage points below that of the white population. Clearly the Voting Rights Act must be extended and expanded to include language minorities.

The census report provides several reasons for minority nonregistration. Inconvenient hours of and locations for registration eliminated an estimated 1.4 million citizens. Two million indicated lack of knowledge about how or where to register. Transportation problems and physical disabilities kept an additional 2.1 million off of the rolls. Recent moves or an inability to meet residency requirements resulted in 6.7 million disenfranchised Americans; 12,200,000 potential voters were unable to exercise their rights as citizens at the ballot box.

Registration has clearly made a great difference for minorities. All major increases in the number of minority office holders seem to follow voter registration drives which have increased minority presence on voting lists. There remains, however, much to do. In testimony before the House Committee on Appropriations in March 1975, Department of Justice officials noted that 407 requests for FBI investigations were pending in cases where voting laws were changed by the States without first being submitted to Washington as the law requires. 317 letters are pending, having been addressed to State attorneys general regarding State enactments found to be unsubmitted as mandated by the law. These examples are not from the 1950's or 1960's. They are pending cases from the period 1971–74. Much progress has been made. More progress is clearly necessary.

California is not covered by the Voting Rights Act. Poignant proof of this can be found by studying the city of Los Angeles. Only Mexico City has a larger Spanish-speaking population than Los Angeles. There are no Chicano members of the city council. There are no Chicano members of the board of supervisors. While there are a few State legislators, only one Chicano is on the school board. Clearly the Spanish-speaking people of the city of Los Angeles are not represented within the city government in a manner consistent with their presence in the population.

Los Angeles apparently does not meet the basic requirements for coverage by the bill—I feel that the city should be covered—but the point is that the high Spanish-speaking percentage of the population contrasted with the almost complete absence of Chicano elected officials in the government points directly to lack of registration and gerrymandered district boundary lines as the cause of Chicano underrepresentation.

I ask that you support passage of H.R. 6219 without any of the weakening amendments such as those submitted by Congressman M. CALDWELL BUTLER and Congressman CHARLES WIGGINS. The Butler amendment would create a vague, weak, and amorphous set of standards for removing a jurisdiction from the special provisions of the act. The existing provisions have worked well and should be left intact. The Wiggins substitute would weaken the protection the act affords against gerrymandering to deny representation. By stressing voting statistics as evidence of conformity with the law, the Wiggins substitute would allow local jurisdictions to gerrymander along racial lines and effectively frustrate the intentions of the act. We cannot afford to take backward steps with the people's right to vote.

The Voting Rights Act of 1965 has resulted in significant gains in the level of minority voter registration. There are more black officials holding elective office than before. The huge gulf between white and black registration percentages has been reduced. More than ever before, Americans who have been denied their right to vote on the basis of the color of their skin are taking an active role in the running of their governments at local, State, and Federal levels. But as the testimony if the Department of Justice officials just over 2 months ago so clearly and starkly reveals, the protection of the Voting Rights Act must be extended. I ask your support to pass H.R. 6219 free of amendments designed to weaken the active role this act has had in the struggle of all Americans to participate in their government.

Mrs. MINK. Mr. Chairman, as a strong supporter of the right of each citizen to participate fully in the democratic process, I rise today in support of the extension of the Voting Rights Act.

The idea of protecting and encouraging the rights of an ethnic minority to exercise its franchise was first developed in the midst of the tumultuous 1960's when the Federal Government intervened on behalf of black Americans. That protection has been extended under this committee bill to members of other ethnic groups including those of Spanish heritage, Asian Americans, Alaskan Natives, and American Indians. Under the rubric "Asian Americans" the following four subgroups are expected to be covered: Japanese, Chinese, Filipino, and Korean. Members of these subgroups residing in the State of Hawaii, including the city and county of Honolulu, will potentially be affected by the committee's bill.

I question the need to cover all of the above subgroups in Hawaii. But I am hopeful that floor debate and the colloquy will clear up some of the questions I have raised. The city and county of Honolulu has been "triggered" since the inception of the Voting Rights Act of 1965 because less than 50 percent of the voting age population voted. This year's bill shows that the city and county of Honolulu will continue to be covered by title II because again under the data used 47.9 percent of its voting age population voted in the Presidential elections of 1972.

Most of the citizens of the State of Hawaii are fluent in English, both as a spoken and as a written language. As a result, English-only elections have been regarded sufficient to meet the needs of the people. This committee bill calls for a bilingual ballot under certain conditions. We need to meet the specific needs of the minority subgroups as applicable in the State of Hawaii. Most of the citizens of the four minority subgroups speak English. However since the 1965 amendments to the Immigration Act, a large number of immigrants of Filipino and Korean ancestry in particular have come to Hawaii, many of whom are now new citizens entitled to vote, but who do not. Because of their relative short stay in the country, obviously their ability to

read, write, and comprehend English is not as good as those who have been here for many years.

I support coverage of these persons who could benefit by a program of bilingual education regarding voting. As for a discussion of all campaign issues in these languages to meet their needs so that we do not have just a new voting bloc but an informed one is another matter entirely. I certainly support the need to do all we can to encourage the extension of the franchise to all citizens so they can discharge their full duty as American citizens. "Equal access to the ballot" to all of our citizens is important, but providing full participation in the democratic process is a far greater challenge.

The committee states through legislative colloquy that a political subdivision may bail out specific minority subgroups covered under title II and that they intend to explicitly direct the Director of the Bureau of the Census to determine illiteracy rates for voting age citizen population by minority subgroups. This information is essential to determine whether a particular subgroup should be covered, if at all, under title III.

The committee's data indicates that the city and county of Honolulu will again fall under the requirements of title II, because less than 50 percent of its voting age population as determined by the act voted in the 1972 Presidential elections.

While the city and county of Honolulu did not under the 1965 act "suffer" any consequences; that is, no Federal registrars were sent in to monitor our elections, because it was assumed we could bail out as we had no "test or device" which discriminated against eligible voters. However, this year's new bill contains an expanded definition of having a test or device under which it will be difficult to bail out the city and county of Honolulu. It says that a test or device could be found where English-only elections were held in a political jurisdiction where 5 percent or more of the citizen population is a single language minority and where less than 50 percent of the voting age population voted.

I have serious misgivings about the wisdom or propriety of a bill which automatically invokes Federal intervention in an area such as the city and county of Honolulu, with no pervasive history of discrimination either in procedure or at the polls and with no chance to bail out of this coverage. The "trigger" is arbitrary and bears no relation to the facts as they exist in Honolulu.

The city and county of Honolulu has had English-only elections for years and is a political subdivision where more than 5 percent of its citizen population is Asian American or, according to the committee, a "language minority." The first fallacy in completely accepting a bill such as that reported by the committee is to subscribe to the term that Asian American is a language minority. There is no such language as "Asian American" or even "Asian." There are many languages which can be considered as being Asian or Asiatic in origin—but bear in mind that "Asian" does not describe one single language. The second fallacy is to subscribe to the premise that an English-only election can be and is, in and of itself, discriminatory simple when 5 percent or more of the people in the stated political jurisdiction is of a single language minority, to wit, in this case Asian American. What if this language minority, as in the State of Hawaii, is perfectly fluent in English as its first, primary, and only language? Then is it not perfectly logical to have an English-only election? Why should a 5-percent ethnic Asian minority trigger title II coverage in such an instance? Should not the minority's ability to read an English language ballot be the test?

Further, under title II, I question the basis upon which the percentage, 47.9 percent, was determined for the city and county of Honolulu. The voting age population used includes aliens, military persons and military dependents. From this base, Census determined that only 47.9 percent of the voting age voted in the 1972 election in Honolulu.

Note that if the determination for voter participation was on the statewide basis, even including aliens and military, the rate would have been 50.9 percent. Why is this percentage not used in terms of determining overall coverage for Hawaii? In addition, for Honolulu with the military and immigrant population concentrations, it is completely misleading to add aliens and the military and military dependent population to the voting age population. These persons are not eligible to vote. Use of such figures inflates the base to the detriment of our actual voter participation counting only eligible voters. Hawaii has the highest, 7.8 percent, rate of aliens of any other State in the Union and one of the highest numbers of military residents.

Most of these two categories of people live in the city of Honolulu. Omitting the military population including their dependents over the age of 18, a group which totaled 73,000 in 1972, could raise the voter participation rate in Honolulu significantly. Also Census says there were 37,677 aliens of voting age in Hawaii in 1970. If that number as well as the military population had been excluded from the voting age population of the city and county of Honolulu, the rate of voter participation for the city and county would have been 65 percent, and Honolulu obviously would not be covered under title II at all.

The entire State of Hawaii will, however, be covered under title III. It may therefore be "moot" to try to "untrigger" the city and county of Honolulu from title II. But I believe that each title should stand on its own basis.

The city and county of Honolulu has been covered under the Voting Rights Act ever since its inception in 1965. However, there has been no Federal intervention despite its inclusion because the criteria could not be met for such intervention. It seems grossly unfair that what "triggers" the city of Honolulu now is an arbitrary formula not relevant to facts of our community. The effect of this will be to impose a great burden on the city and county to go to court to try to free itself of this stigma of discrimination. This I believe is unfair.

I support the elimination of barriers which prevent citizens of racial minority groups of having a meaningful access to the polls. To help all of these individuals we need greater funds for bilingual education in all age groups and I hope that this august committee will consider support of my bill H.R. 2522 which would help areas like Honolulu with a large alien, non-English-speaking population. To merely require a bilingual ballot is not enough. A strong, bilingual, public information, issues orientation, public awareness program is needed so that voting will be a total meaningful experience.

Mr. LAGOMARSINO. Mr. Chairman, the Voting Rights Act of 1965 was a landmark piece of legislation, serving an important purpose at a unique juncture in our history. The long struggle by black people to gain freer access to the political process was aided significantly by Congress when it adopted this measure 10 years ago. The ingrained and systematic exclusion from the polls which blacks had experienced for so long, has been broken down with commendable speed and minimum disruption of constitutional procedures. And the job is not yet ended. The guarantees in the original act remain vital today and should be preserved for the future.

It is for precisely these reasons, Mr. Chairman, that the bill now before us is such a disappointment. This bill, despite its title, is not a simple extension of the original Voting Rights Act, nor of its successor enacted in 1970. In reality, this bill proposes an alarming extension of Federal controls into an area historically and constitutionally reserved to the States, with no corresponding requirement to prove that such a drastic step is necessary.

The assumption in this bill is that you automatically have a case of racial discrimination in any county with a significant minority population, whenever 50 percent of all the voters fail to turn out in an election. As we all know, voter turnout in the 1974 Federal elections was less than 40 percent nationwide. Under the assumption implicit in this bill you would have to convict the entire Nation simply because of apathy.

The sheer practical problems involved in complying with the minority language provisions of the bill are enormous, so enormous, in fact, that both counties in my district oppose the bill. Asian American, Indians, and Alaskans, to cite three of those covered, speak many languages, some of which are not even written. The requirement to administer elections in each language would be impossible to fulfill. And if they could be complied with, who would bear the cost?

There is no money provided in this bill, yet election officials in my district estimate costs of up to $20,000 a year in one county alone. To quote a leading newspaper in my district:

> This is fairly typical of the way Federal laws often work: the legislation is approved in Washington . . . and then it's up to Ventura County to find the money to finance whatever the legislators require.

Mr. Chairman, this is not a hopeless situation. We have a basically good law on the books now. Let us repair whatever defects it has and extend it. The best way to have done was to have adopted this, the substitute proposed by Mr.

WIGGINS. All areas should be subject to remedy wherever voting rights are denied, and that is what the Wiggins substitute would do. It would provide for coverage of Spanish-speaking minorities. All areas, likewise, should be released from Federal intervention when rights are restored, as the substitute provides. H.R. 6219 provides no incentive for either of these cases; it simply proposes Federal control of elections, in an arbitrarily selected manner.

Mr. Chairman, the medicine has worked well. Let us not bring in another doctor.

Mr. RANGEL. Mr. Chairman, I rise today to enthusiastically support H.R. 6219, the Voting Rights Act amendments, as reported out of the Judiciary Committee. As I said when I testified before the Subcommittee on Civil and Constitutional Rights in February, the members of the committee are to be commended for scheduling hearings on this significant piece of legislation soon after the 94th Congress began. In so doing, they insured that the full House would have enough time to act on this issue and thus continue to protect the vital civil liberties of all Americans.

The question which is before us today is whether the act should be extended in order to permit continued increases in registration and voting by the Nation's minority citizens. At a time when cynicism pervades our minority communities throughout the Nation, relative to participating in the political process, we would be remiss in our duties as legislators if we failed to responsibly deal with this issue. In order to restore confidence in our citizenry and to insure maximum participation in the election process, it is imperative that this act be extended.

What type of extension should be supported? I subscribe to the position taken by the many supporters of the proposed 10-year extension. Ten years from now sounds like a long time. I do not think it is a long period when it is viewed in the light of the voting right abuses that were allowed to grow up in the nearly 100 years that elapsed between the ratification of the 15th amendment of the Constitution in 1870 and the enactment of the Voting Rights Act in 1965.

It is true that over 1 million new black voters have been registered in the seven covered Southern States between 1964 and 1972, which has increased the percentage of eligible blacks registered from about 29 percent to over 56 percent. With this increase in black voter participation there has been a significant rise in the numbers of black candidates elected to office. There are those who say that these facts indicate that the law is no longer needed since progress is clearly being made. Thus they will be offering amendments today to dilute the effectiveness of the act. What these amendments seek to do is change the so-called trigger mechanism, to make it easier for jurisdictions to bailout from under the act.

I believe that all amendments which would weaken this important act should be defeated so that all vistiges of overt and direct disenfranchisement will be put to rest once and for all. Even a cursory glance at these figures indicates that the law still is extremely necessary to close the gap that presently separates the number of blacks in the voting population from the number of black elected officials. When the vote on final passage comes today, Americans will be watching to see what response we give to the cries of those who have not been allowed to participate fully in the political process. Let us not fail to meet this very important challenge.

Mrs. HOLT. I am not happy about voting against anything described as an extension of the Voting Rights Act, but H.R. 6219 is another example of legislation having a splendid title to cover a snakepit of dangerous language.

This legislation is an unfair and punitive weapon against several States, endorses voting by illiterates, and provides for extreme Federal intervention in State election processes.

The Voting Rights Act of 1965 required approval by the U.S. Attorney General of any changes in the voting laws or rules of States which had a literacy test and less than a 50-percent voter turnout in the 1964 Presidential election. Literacy tests were suspended.

This placed the elections of several States under Federal jurisdiction for the past 10 years, and they have eliminated discrimination against minorities in their election laws and practices.

But this 1975 act would continue Federal jurisdiction in those States for another 10 years, regardless of minority voter participation since 1965. This legislation provides no mechanism for a State to prove its innocence to recover control of its own election processes. It continues to punish States for practices in effect more than a decade ago.

Another bad feature of this bill extends coverage to language minorities, requiring States and localities to provide ballots and other election materials in the language of such a minority group.

The State of Alaska would be forced to provide ballots and voting information in 20 or more different native dialects. The situation in Hawaii could also become chaotic.

Mr. RANGEL. Mr. Chairman, I rise today to enthusiastically support H.R. 6219, the Voting Rights Act amendments, as reported out the Judiciary Committee. As I said when I testified before the Subcommittee on Civil and Constitutional Rights in February, the members of the committee are to be commended for scheduling hearings on this significant piece of legislation soon after the 94th Congress began. In so doing, they insured that the full House would have enough time to act on this issue and thus continue to protect the vital civil liberties of all Americans.

The question which is before us today is whether the act should be extended in order to permit continued increases in registration and voting by the Nation's minority citizens. At a time when cynicism pervades our minority communities throughout the Nation, relative to participating in the political process, we would be remiss in our duties as legislators if we failed to responsibly deal with this issue. In order to restore confidence in our citizenry and to insure maximum participation in the election process, it is imperative that this act be extended.

What type of extension should be supported? I subscribe to the position taken by the many supporters of the proposed 10-year extension. Ten years from now sounds like a long time. I do not think it is a long period when it is viewed in the light of the voting right abuses that were allowed to grow up in the nearly 100 years that elapsed between the ratification of the 15th amendment of the Constitution in 1870 and the enactment of the Voting Rights Act in 1965.

It is true that over 1 million new black voters have been registered in the seven covered Southern States between 1964 and 1972, which has increased the percentage of eligible blacks registered from about 29 percent to over 56 percent. With this increase in black voter participation there has been a significant rise in the number of black candidates elected to office. There are those who say that these facts indicate that the law is no longer needed since progress is clearly being made. Thus they will be offering amendments today and tomorrow to dilute the effectiveness of the act. What these amendments seek to do is change the so-called trigger mechanism, to make it easier for jurisdictions to bail out from under the act.

I believe that all amendments which would weaken this important act should be defeated so that all vestiges of overt and direct disenfranchisement will be put to rest once and for all. Even a cursory glance at these figures indicates that the law still is extremely necessary to close the gap that presently separates the number of blacks in the voting population from the number of black elected officials.

Numerous studies have been made regarding the progress which has been made under the act. The Civil Rights Commission has pointed out that there continues to be abuses of the right to vote in those jurisdictions presently covered under the act. Although I recognize that advances have been made in increasing the numbers of black elected officials, these officials do not occupy positions which involve broad policymaking for the jurisdiction or constituency represented. The best example of this is the State of Mississippi, where blacks represent 37 percent of the population, while electing only one black member of the State legislature. In order to insure that more blacks and other minorities are elected to policymaking positions, this act must be extended.

When the vote on final passage comes tomorrow, Americans will be watching to see what response we give to the cries of those who have not been allowed to participate fully in the political process. Let us not fail to meet this very important challenge.

The president of the National Bar Association, representing the Nation's black lawyers, wrote to me in my capacity as chairman of the Congressional Black Caucus, to express that organization's strong support for extension of the Voting Rights Act. The letter so eloquently expresses the sound legal and moral reasons for extending the act that I insert

it in its entirety at this point in the RECORD for the benefit of my colleagues.

MAY 23, 1975.

HON. CHARLES B. RANGEL,
Chairman, Congressional Black Caucus, Cannon House Office Building Annex, Washington, D.C.

DEAR MR. CHAIRMAN: The National Bar Association supports extension and expansion of the Voting Rights Act of 1965 (as amended) as proposed in HR 6219, the bill reported to the House of Representatives by the Judiciary Committee. As the principal organization representing the nation's black legal community, including more than 8,500 judges, lawyers, and law students, the National Bar Association believes it is a national imperative that the voting rights of American minorities continue to be protected by: (1) extension of the Voting Rights Act of 1965 for ten additional years; (2) making permanent the nationwide ban on the use of literacy tests or devices; and (3) expanding the present coverage of the Act to protect the voting rights of "language minorities" as defined in HR 6219.

The National Bar Association believes that sufficient and persuasive documentation of the continued need for the Act, and the proposed expansion to protect Asian Americans, Alaskan Natives, American Indians and persons of Spanish heritage, has been presented before both the House and Senate Subcommittees hearing testimony on the extension of the Act. *The Voting Rights Act: Ten Years Later*, a report of the Civil Rights Commission, accurately documents continued abuses of the right to vote in presently covered jurisdictions. Although many point to the increase in minority registration and the election of a substantial number of black elected officials in the six southern states as evidence of the Act's success, we believe that much of the purported success is more apparent than real. For example, even a cursory examination of the offices held by many of the southern black elected officials reveals that they hold positions which do not involve broad policy making for the jurisdiction or constituency represented. The clearest example of this is Mississippi—where a 37 percent black, statewide population has successfully elected an impressive number of local officials, while there is only one (1) black member in the entire Mississippi legislature. Another probable indication of the need for the Voting Rights Act is the constant rate of objections entered by the Attorney General to Section 5 submissions.

Additionally, the unwillingness of covered states and jurisdictions to submit to election law changes and comply with the Act's provisions, while complaining of the Act's burdensome intrusion on State prerogatives, provides further evidence for extending the present law. As you know, Justice Department figures indicate the failure of Louisiana, Mississippi, Georgia and Alabama to submit election law changes for preclearance as required by Section 5 of the Act.[1]

The Association also supports extension of the Act to protect the voting rights of other minority groups who suffer similar inhibitions in their effort to register, cast an effective ballot, and successfully pursue public office. Although language differences and lack of full facility with English unquestionably imposes a 'test or device' in places where English only elections are held, the language barrier *is not* the only problem faced by national origin and "language minority" voters candidates. Many of the tools, e.g., annexation, discriminatory districting, at-large elections, multi-member districts, numbered posts, etc., successfully used against blacks in the covered jurisdictions are also employed against other minority groups and minority group coalitions, particularly in Texas.[2]

The proposal to make the temporary ban on literacy tests and other devices permanent is both timely and, in our view, constitutional. The Subcommittee on Civil Rights and Constitutional Rights and the House Judiciary Committee rests its proposal for a permanent ban on the reasons enunciated in *Oregon* v. *Mitchell*, 400 U.S. 112 (1970), supporting Congress' ability, based on the 14th and 15th Amendments, to make the temporary ban permanent. We agree. Further, based on the U.S. Supreme Court decision in *Gaston County* v. *United States*, 395 U.S. 285 (1969), a nationwide permanent ban on literacy tests may be compelled by the failure of the States to provide equal educational opportunity to racial and national origin minority school children.[3] Because of the mobility of all persons, including those who were and are victimized by inferior education, a nationwide ban is appropriate to protect their right to vote wherever they live.

Finally, the National Bar Association wishes to take particular note of and place emphasis upon the proposed amendment which would allow for private suit under Section 3 and provides for attorneys fees and costs to successful plantiffs. This will assist the Department of Justice in enforcing the Act, facilitate the protection of the voting rights of persons in jurisdictions not now covered or proposed for coverage under H.R. 6219, and it will assist private litigants in vindicating their rights. This will be of particular benefit to poor black voters and candidates in the south and elsewhere who often cannot afford the cost of fulfilling their rights under the law.

Needless to say the National Bar Association opposes any weakening amendments which would unnecessarily expand geographic coverage of the Act or weaken public or private enforcement of the Voting Rights Act, particularly amendments aimed at Section 5.

Sincerely,

CHARLES P. HOWARD,
President.

Mr. MOORE. Mr. Chairman, I rise in support of the unencumbered right of all Americans to vote, wherever they might live in the United States. That is precisely why I cannot support this bill as it has been reported from committee.

The committee bill continues the highly discriminatory and punitive treatment of seven southern States. These provisions were put in the law fully 10 years ago. Things were different back in 1965, and this bill fails to recognize the progress my State of Louisiana and her sister States in the South have made in the last decade.

The times have changed. There is today no discrimination in Louisiana against blacks, or anyone else for that matter. To the contrary, minority groups can and do register and vote in large numbers. Yet nothing has been done under this bill to modernize the act, and it is virtually impossible for my State to earn its way out from under its restrictions.

In my humble opinion, it is unconstitutional for the Federal Government to step in and legislate "preclearance" by the U.S. Attorney General or the U.S. courts every time a State wants to change its voting laws and procedures—especially in the absence that the State has been practicing discrimination. Even assuming for the moment that such interference with State election laws is legal, the emphasis should be in rooting out present discrimination wherever it may be found, not in dredging up ancient history.

For this reason, I support the substitute which will be offered by the gentleman from California (Mr. WIGGINS) to provide equal treatment for all jurisdictions based on minority voter participation in the most recent Federal election. If a jurisdiction becomes covered by the act through insufficient minority turnout, the substitute would make it possible to regain control of its own electoral process through improved performance the next time around. This substitute gives every citizen equal protection of the laws in every State of the Union.

If the Wiggins substitute is not accepted, I could still support passage of H.R. 6219, provided that it incorporate the Butler amendment. Although not as comprehensive as the substitute, this amendment would institute strict, but achievable, standards for getting out from under the act. A covered jurisdiction would only be exempted if it had 60-percent minority voter turnout in the latest Presidential election, if it is implementing an affirmative action program to revamp its voting laws, and if it has been free of violations for the preceeding 5 years. These are stiff standards and those jurisdictions which meet them will be far ahead of the rest of the country in minority voter participation.

Mr. Chairman, if either one of these amendments are adopted, the Voting Rights Act will be sufficiently improved to merit my support, If not, I will be left with a choice between a bad bill or no bill at all. In that case I will vote to defeat the bill in the hope that the committee will bring back more equitable language before the current law expires in August. But make no mistake, I can not tolerate any illegal or onerous encumbrances of any citizens right to register, vote, and even run for office regardless of race, color, creed, education, occupation, or place of habitation.

The CHAIRMAN. Are there further amendments? If not, 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. 6219) to amend the Voting Rights Act of 1965 to extend certain provisions for an additional 10 years, to make permanent the ban against certain prerequisites to voting, and for other purposes, pursuant to House Resolution 469, he reported the bill back to the

[1] Assistant Attorney General J. Stanley Pottinger indicated in his March 5, 1975 testimony before the House that Alabama(161), Georgia(158) Louisiana(149), and eight other states have failed to submit laws passed by the legislature subject to Section 5 preclearance.

[2] "Survey of Preliminary Research on Problems of Participation of Spanish Speaking Voters in the Electoral Process", U.S. Commission on Civil Rights Staff Memorandum (April 23, 1975).

[3] Brown v. Board of Education of Topeka 347 U.S. 483 (1954) Brown I; Brown v. Board of Education 349 U.S. 294 (1954) Brown II; Keyes v. School District No. 1 413 U.S. 189, Lau v. Nichols, 414 U.S. 563 (1974); Natonabah v. Board of Education, 355 F. Supp. 716 (D.N. Mex. 1973).

House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

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.

MOTION TO RECOMMIT OFFERED BY MR. M'CLORY

Mr. McCLORY. Mr. Speaker, I offer a motion to recommit with instructions.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. McCLORY. I am opposed to the bill in its present form.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. McCLORY moves to recommit the bill H.R. 6219 to the Committee on the Judiciary with instructions to report back the bill forthwith with an amendment as follows: Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Voting Rights Act Amendment of 1975".

SEC. 2. Section 4(a) of the Voting Rights Act of 1965 (79 Stat. 438; 42 U.S.C. 1973b(a)), as amended by the Voting Rights Act Amendments of 1970 (84 Stat. 315), is further amended by striking the words "ten years" wherever they appear in the first and third paragraphs and by substituting the words "seventeen years".

SEC. 3. Section 201(a) of the Voting Rights Act of 1965 (42 U.S.C. 1972aa(a)), as added by the Voting Rights Act Amendments of 1970 (84 Stat. 315), is amended by striking "August 6, 1975" and substituting "August 6, 1982", and by striking out "as to which the provisions of section 4(a) of this Act are not in effect by reason of determinations made under section 4(b) of this Act." and inserting in lieu thereof a period.

Mr. McCLORY (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the motion to recommit be dispensed with, that it be printed in the record, and I will explain the motion to recommit.

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

There was no objection.

Mr. McCLORY. Mr. Speaker, this motion to recommit would provide for the extension of the existing Voting Rights Act for a period of 7 years.

It seems to me that any and all who are in suport of the Voting Rights Act of 1965, and as extended in 1970, who are in support of voting rights for all Americans, can support this motion to recommit.

Let me indicate why I am making this motion at this time.

It is my feeling that the Voting Rights Act has been very salutary and has been very good. We have heard a number of Members who have spoken and who have referred back to the injustices in Selma, Ala., and other incidents, and who have accounted for their own presence here in the House of Representatives because of the Voting Rights Act. Indeed, the act has protected the voting rights of all Americans, giving them the opportunity to serve in public office, and allowing some to serve in the Congress of the United States.

The committee bill which we have before us takes on a whole new concept, an entirely new concept. It is not based on the subject of race or color; it is based on language minority groups.

As a matter of fact, the basis for including language minority groups is not factual but statistical, with no reference at all to the question of whether or not there is discrimination.

Under title II of the bill the trigger for invoking the Federal jurisdiction requires 5 percent or more of a language minority group, and less than 50 percent voter turnout in the State or in the political subdivision. This arbitrary formula would bring in 14 States, or parts of States.

Title III would add the additional factor that if you had less than the national average for literacy in the State, or in the political subdivision, and had 5 percent or more of a single language minority group, then you would have to provide ballots in the language of the minority group.

We heard here today in the colloquy discussing the subject of Asian Americans as a single language minority group that in the State of Hawaii, for instance, they would be required to provide not only ballots, but all of the voting information as well in as many as five different languages.

Let me suggest to the Members, since we are all thinking about the national economy, that the legislation also provides for taking of censuses every 2 years. It is estimated that these would cost at least $100 million each. That is the Federal Government's expense. In addition to that, as the gentleman from California (Mr. KREBS) brought out, this will impose an unconscionable burden upon every State and every locality that is subjected to this legislation, with the entire expense being cast on the area itself.

But more important is the fact that there was no substantial evidence in support of this legislation, nothing that compares with the evidence we had in 1965. We had virtually not a word about Asian Americans, virtually not a word about Alaskan Natives, virtually not a word about American Indians, and virtually not a word about Mexican Americans or those of Spanish heritage, except in the State of Texas. That is a very poor basis upon which to legislate.

Let me point out one further thing: I would like to read one quote from Theodore Roosevelt, because this legislation would perpetuate multilinguism in our country, which I think is bad.

Now, I am a linguist, as some of the Members know. I have studied abroad, studied other languages, and I believe that this should be promoted by us, but for us to promote and perpetuate multilinguism in our country I believe is completely contrary to the American system.

Theodore Roosevelt said:

We have room for but one language here, and that is the English language, for we intend to see that the crucible turns our people out as Americans, and not as dwellers in a polyglot boarding house.

We should provide for language training if there is language deficiency in certain areas of our country. But with this kind of legislation these persons are never going to learn our language.

Furthermore, let me just say this, that we have in all of the States of the union provisions for assistance to voters so that if there is a language deficiency we can assist any voter to see that he has the full opportunity to vote.

This motion to recommit is entirely consistent with voting rights for all Americans, and I urge the Members' support of it so we can get rid of these unconscionable, mischievious parts of the bill that the committee has put in. I urge a favorable vote.

Mr. EDWARDS of California. Mr. Chairman, I urge a no vote on the motion to recommit. The motion to recommit would eliminate titles II, III, and IV from the bill. That is what we have been debating for the last 2 full days. We have a fine bill here. I urge the Members to support it. By all means, let us not vote to recommit.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken, and the Speaker announced that the noes appeared to have it.

Mr. McCLORY. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

Mr. McCLORY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. The Chair will count. Two hundred twenty-two Members are present, a quorum.

Mr. McCLORY. Mr. Speaker, I demand tellers.

Tellers were refused.

So the motion to recommit was rejected.

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.

RECORDED VOTE

Mr. BUTLER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 341, noes 70, answered "present" 2, not voting 20, as follows:

[Roll No. 263]

AYES—341

Abdnor	Badillo	Boggs
Abzug	Bafalis	Boland
Adams	Baldus	Bolling
Addabbo	Barrett	Bonker
Ambro	Baucus	Brademas
Anderson, Calif.	Beard, R.I.	Breaux
	Bedell	Breckinridge
Anderson, Ill.	Bell	Brodhead
Andrews, N.C.	Bennett	Brooks
Andrews, N. Dak.	Bergland	Broomfield
	Biaggi	Brown, Calif.
Annunzio	Biester	Brown, Mich.
Ashley	Bingham	Brown, Ohio
Aspin	Blanchard	Broyhill
AuCoin	Blouin	Buchanan

Burke, Calif.	Hicks	Pepper
Burke, Fla.	Hightower	Perkins
Burke, Mass.	Hillis	Peyser
Burlison, Mo.	Holland	Pickle
Burton, John	Holtzman	Pike
Burton, Phillip	Horton	Pressler
Byron	Howard	Preyer
Carney	Howe	Price
Carr	Hubbard	Pritchard
Carter	Hughes	Quie
Cederberg	Hungate	Randall
Chisholm	Hyde	Rangel
Clay	Jacobs	Rees
Cleveland	Jeffords	Regula
Cohen	Jenrette	Reuss
Collins, Ill.	Johnson, Calif.	Rhodes
Conable	Johnson, Colo.	Richmond
Conte	Johnson, Pa.	Riegle
Conyers	Jones, Ala.	Rinaldo
Corman	Jones, N.C.	Risenhoover
Cornell	Jones, Okla.	Rodino
Cotter	Jordan	Roe
Coughlin	Karth	Rogers
D'Amours	Kasten	Roncalio
Daniels, N.J.	Kastenmeier	Rooney
Danielson	Kazen	Rose
Davis	Kemp	Rosenthal
de la Garza	Keys	Roush
Delaney	Koch	Roybal
Dellums	Krebs	Ruppe
Dent	Krueger	Russo
Derrick	LaFalce	Ryan
Derwinski	Latta	St Germain
Diggs	Leggett	Santini
Dingell	Lehman	Sarasin
Dodd	Lent	Sarbanes
Downey	Levitas	Scheuer
Duncan, Oreg.	Litton	Schneebeli
Duncan, Tenn.	Lloyd, Calif.	Schroeder
du Pont	Lloyd, Tenn.	Schulze
Early	Long, La.	Sebelius
Eckhardt	Long, Md.	Seiberling
Edgar	McCloskey	Sharp
Edwards, Calif.	McCollister	Shipley
Eilberg	McCormack	Shriver
Emery	McDade	Simon
Erlenborn	McFall	Sisk
Esch	McHugh	Skubitz
Eshleman	McKay	Slack
Evans, Colo.	McKinney	Smith, Iowa
Evans, Ind.	Macdonald	Smith, Nebr
Evins, Tenn.	Madden	Snyder
Fascell	Madigan	Solarz
Fenwick	Maguire	Spellman
Findley	Mahon	Staggers
Fish	Mann	Stanton,
Fisher	Martin	J. William
Fithian	Matsunaga	Stanton,
Flood	Mazzoli	James V.
Florio	Meeds	Stark
Flowers	Melcher	Steelman
Foley	Metcalfe	Steiger, Wis.
Ford, Mich.	Meyner	Stokes
Ford, Tenn.	Mezvinsky	Stratton
Forsythe	Michel	Studds
Fountain	Mikva	Sullivan
Fraser	Milford	Symington
Frenzel	Miller, Calif.	Taylor, Mo.
Frey	Miller, Ohio	Taylor, N.C.
Fulton	Mills	Thompson
Fuqua	Mineta	Thone
Gaydos	Minish	Thornton
Giaimo	Mink	Traxler
Gibbons	Mitchell, Md.	Tsongas
Gilman	Mitchell, N.Y.	Udall
Gradison	Moakley	Van Deerlin
Grassley	Moorhead, Pa.	Vander Veen
Green	Morgan	Vanik
Gude	Mosher	Vigorito
Guyer	Moss	Walsh
Hagedorn	Mottl	Waxman
Hall	Murphy, Ill.	Weaver
Hamilton	Murphy, N.Y.	Whalen
Hammer-schmidt	Murtha	White
Hanley	Myers, Ind.	Wilson, Bob
Hannaford	Natcher	Wilson, C. H.
Harkin	Neal	Winn
Harrington	Nedzi	Wirth
Harris	Nix	Wolff
Harsha	Nolan	Wright
Hastings	Nowak	Wydler
Hawkins	Oberstar	Wylie
Hayes, Ind.	Obey	Yates
Hays, Ohio	O'Brien	Yatron
Hechler, W. Va.	O'Hara	Young, Alaska
Heckler, Mass.	O'Neill	Young, Fla.
Hefner	Ottinger	Young, Ga.
Heinz	Patten, N.J.	Young, Tex.
Helstoski	Patterson, Calif.	Zablocki
Henderson	Pattison, N.Y.	Zeferetti

NOES—70

Archer	Ashbrook	Beard, Tenn.
Armstrong	Bauman	Bevill
Bowen	Haley	Pettis
Brinkley	Hansen	Poage
Burgener	Hébert	Quillen
Burleson, Tex.	Hinshaw	Roberts
Butler	Holt	Robinson
Casey	Hutchinson	Rousselot
Chappell	Ichord	Runnels
Clancy	Jarman	Satterfield
Clawson, Del	Kelly	Shuster
Cochran	Ketchum	Sikes
Collins, Tex.	Kindness	Spence
Crane	Lagomarsino	Steed
Daniel, Dan	Landrum	Steiger, Ariz.
Daniel, R. W.	Lott	Stephens
Devine	Lujan	Symms
Dickinson	McDonald	Talcott
Downing	McEwen	Treen
Edwards, Ala.	Montgomery	Waggonner
English	Moore	Wampler
Flynt	Moorhead, Calif.	Whitehurst
Ginn	Nichols	Whitten
Goldwater		

ANSWERED "PRESENT"—2

Gonzalez	McClory

NOT VOTING—20

Alexander	Mathis	Rostenkowski
Clausen, Don H.	Moffett	Stuckey
Conlan	Mollohan	Teague
Drinan	Myers, Pa.	Ullman
Goodling	Passman	Vander Jagt
Jones, Tenn.	Patman, Tex.	Wiggins
	Railsback	Wilson, Tex.

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Patman for, with Mr. Mathis against.

Mr. Drinan for, with Mr. Teague against.

Mr. Jones of Tennessee for, with Mr. Passman against.

Until further notice:

Mr. Alexander with Mr. Moffett.

Mr. Rostenkowski with Mr. Stuckey.

Mr. Ullman with Mr. Charles Wilson of Texas.

Mr. Mollohan with Mr. Conlan.

Mr. Goodling with Mr. Wiggins.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just enacted.

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

There was no objection.

PERSONAL EXPLANATION

Mr. MOFFETT. Mr. Speaker, I would like the RECORD to show that I am in strong support of H.R. 6219, the Voting Rights Act Amendments of 1975. The extension and expansion of the original Voting Rights Act represented by this vote is, in my view, one of the most worthy pieces of legislation we have approved this session.

THE OIL AT ELK HILLS

The SPEAKER pro tempore (Mr. HECHLER of West Virginia). Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER), is recognized for 5 minutes.

Mrs. HECKLER of Massachusetts. Mr. Speaker, an editorial in today's Washington Post makes an excellent case for the development of the naval petroleum reserve at Elk Hills, Calif. We in Massachusetts and New England are particularly hard hit by the high price of imported oil.

To reduce the impact of these high costs, I am actively seeking a domestic source of fuel to replace oil. To that end, the other 14 members of the Massachusetts delegation in the House of Representatives have joined me in working for State and Federal funding to explore the coal resources of the Narragansett Basin, which is largely in my 10th Congressional District.

But this coal research is a long range project in the movement for energy self sufficiency. More immediate relief for the energy problem would come from having Elk Hills fully developed. The revenue derived from the sale of the oil should be turned over to the Treasury Department because this oil is a national resource.

The planned development of these oil reserves as part of a comprehensive program will help ease our energy plight.

The Defense Production Act provides that the Armed Forces be given top priority over all American oil and production during any national emergency. This law eliminates the need for the Navy to continue to have a special oil reserve—an idea that came into being 60 years ago when the Navy was converting its ships from coal to oil.

I commend the Washington Post editorial to my colleagues and include it here in my remarks:

THE OIL AT ELK HILLS

To increase this country's oil production, one obvious and desirable step is to begin drawing on the naval petroleum reserve at Elk Hills, Calif. That will require legislation. The extreme hesitation and apprehension that Congress brings to this necessary decision reflects the burden of public suspicion that has weighted on every question about the naval reserves since the Teapot Dome scandal more than half a century ago. We still are paying a price for the corruption within the Harding administration. But the national need for the Elk Hills oil grows steadily, and there is no reason to continue to regard it as untouchable.

The main argument for keeping hands off the naval oil reserves is that, in time of war, the Navy might need them. In making up your mind on that point, you might want to recollect that the Elk Hills reserve was established in 1912. Since then the country has been in four wars, in none of which Elk Hills was used—or even usable, since it takes a couple of years to get a field of that size into full production. In any event, in wartime the needs of the armed forces come first in allocating the 8 million barrels of oil a day that this country currently produces. The naval reserve is a concept that had its origin in a time when oil was still a rather novel fuel in an economy that ran mainly on coal, and continental pipelines were unknown. The idea of these reserves is as obsolete, in terms of defense, as the battleship and the cavalry charge.

The oil from Elk Hills would hardly be the only production from federal land. The House Interior Committee estimates that, with full regard for the rules of conservation, Elk Hills could produce 300,000 barrels a day. That is a substantial volume, but 1.4 million barrels a day is currently being pro-