lieved, and equality of opportunity to good housing must be secured for colored Americans."

I am sure all of us here can agree with the Commission that "equal opportunity in housing will come more readily as part of a great program of urban reconstruction and regeneration." But we must equally be aware of the way in which the effort of a Democratic-controlled Congress to frame an adequate program for slum clearance, urban renewal, and low-income housing has been frustrated and indeed twice vetoed by a Republican administration unwilling to make the investment which prudence and sound economics indicate.

PRESIDENT IGNORES CIVIL RIGHTS COMMISSION HOUSING PROPOSAL

Nor has the Executive order calling for an end to discrimination in all Federal housing programs, which the Civil Rights Commission urged the President to issue last September, yet seen the light of day. In these 8 gray years there has been little inclination to undertake the great program of urban reconstruction and regeneration which the Commission held to be essential to the promotion of human rights throughout the country.

The same negativism that has characterized the administration attitude toward housing holds true of education. The Commission report stresses the necessity of improving the facilities for public education as part of the solution to the difficulties posed by desegregation.

"Better teachers and better schools," says the Commission, "will go a long way to facilitate the transition in public education."

NIXON TALKS FOR EDUCATION BUT VOTES AGAINST IT

But again the contrast between Republican promise and Republican performance is eloquent. Only a few days after a Chicago speech on January 28 in which he said, "Inadequate classrooms, underpaid teachers, and flabby standards are weaknesses we must constantly strive to eliminate," Vice President NIXON cast a tie-breaking vote in the U.S. Senate to kill a bill to provide Federal funds for both classrooms and teachers' salaries.

Nor has the administration taken any action on the proposal by Commission Chairman Hannah, Father Hesburgh, and Commissioner George Johnson that Federal aid to colleges and universities be conditioned on the practice by those institutions of nondiscrimination.

The executive actions which the Commissioners proposed in housing and education require no lengthy congressional debate, no court litigation. They require only a President with a will to act. As Father Hesburgh told the Notre Dame Conference on Civil Rights, "this is a simple thing that could be accomplished tomorrow morning if those in power would decide to do something about it."

GOVERNOR WILLIAMS OF MICHIGAN URGES PRESIDENTIAL LEADERSHIP ON CIVIL RIGHTS

Governor Williams, whose profound dedication to human rights inspires us all, has made this same plea to the President in a first-class article in the February 18 issue of the Reporter magazine. He specifies the many powerful avenues of action the President could pursue tomorrow morning if he were determined to make a moral breakthrough on this problem—the kind of action President Roosevelt began with his wartime Fair Employment Practices Committee and that President Truman continued with his Executive orders calling for equal opportunity in the Government service, the armed services, and in the field of Government contracts.

Once again to quote the Civil Rights Commission: "To eliminate discrimination and demoralization, some dramatic intervention by the leaders of our national life is necessary."

CHESTER BOWLES SAYS CIVIL RIGHTS A NATIONAL PROBLEM

We Democrats of the Middle West cannot pretend that we have done all that we should have done or that our part of the United States is practicing what we so often preach. As CHESTER BOWLES so well reminds us, civil rights is not a regional but a national problem.

Nonetheless, good starts have been made—laws against discrimination in employment and housing in our cities and States, and not laws only, but agencies and commissions working to bring light rather than heat into these difficult areas of our public life.

The Civil Rights Commission reported that there were 13 States and 34 cities with laws against discrimination in some field of housing, but I understand that Michigan and Minnesota are the only two States of the Middle West on the list. We lag badly behind the pioneer States of Connecticut, Colorado, Massachusetts, New York, and Oregon.

MIDWEST HAS CIVIL RIGHTS PROBLEMS IN OWN BACKYARD

So we have work to do. We will be far stronger in our struggle to protect the right to vote in Mississippi and to encourage desegregation of the schools in the Deep South if we more squarely face up to the tests peculiar to our own part of the country—equal opportunity in employment and housing and the problem of de facto school segregation because of residential racial concentrations.

It ought to be clear to all of us who live in the Middle West that we will be more effective in the fight for civil rights throughout our Nation and that we will obtain a stronger platform on civil rights at Los Angeles and more resolute action from the next Democratic administration if we accept fully our own moral and political responsibility here at home.

So that, in shorthand, is where we are.

Whither are we tending?

MARTIN LUTHER KING: "IF YOU HAVE WEAPONS, TAKE THEM HOME"

"The wind of change is blowing," Prime Minister Macmillan warned the Parliament of the Union of South Africa. It is blowing not only on that continent just now emerging onto the stage of world events, but it is blowing in this country, too, in the massive Negro demonstrations at lunch counters, in the passive resistance symbolized by a Martin Luther King, who tells his people in soft but fearless words: "If you have weapons, take them home. If you do not have them, please do not seek to get them. He who lives by the sword shall perish by the sword."

This is a dedication and a spirit that will not be easily overcome. Its intensity is a measure of the change that is upon us. But it is not a change that should take us by surprise. For it is a change which means simply that the gap between the noble promise of our Constitution and its fulfillment in the life of our country is at last being closed.

EARLIEST CHAMPIONS OF CIVIL RIGHTS WERE SOUTHERNERS

For the American dream is now to become a reality for colored Americans as well as white ones. The dream which Thomas Wolfe of North Carolina put into these words—and let us remember that both the author of the Declaration of Independence and the earliest champions of civil rights, the men who got the first 10 civil rights adopted as our Bill of Rights, were Southerners—that dream is alive and at work in the minds and hearts of Southerners today, black and white, and of Northerners, too.

It is this dream which it must be the primary purpose of the Democratic administration of 1961 to shape into reality, the dream and promise described by Thomas Wolfe:

"To every man, regardless of his birth, his shining, golden opportunity, to every man the right to live, to work, to be himself and to become whatever things his manhood and his vision can combine to make—this, seeker, is the promise of America."

SENATE

FRIDAY, APRIL 8, 1960

The Senate met at 10 o'clock a.m., and was called to order by the President pro tempore.

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

O God, who art the resurrection and the life: As nature's tomb is flung open, we are thankful for the awakening beauty of a renewed earth. Give us the grace of receptivity, lest we walk in a garden of loveliness with eyes that do not thrill and hearts that do not sing.

As Thy miracle of life is wrought anew in the tiniest bloom, in every green blade of grass, and in budding branches high against the bending sky, may the sheer wonder of it rebuke our chilling cynicism, the joy of it restore our faded hope, and its loveliness enrich our understanding of Thy promise which is sure.

In a spiritual springtime, may the high and the holy lay their touch upon us, and may our brief span of mortality be lighted with immortal dreams.

With the beauty of the Lord, our God, upon us, may we go forward with fortitude, honoring in the present all that is precious from the past, and keeping bright the promise of the future.

In the dear Redeemers' name, we ask it. Amen.

THE JOURNAL

On request of Mr. JOHNSON of Texas, and by unanimous consent, the reading of the Journal of the proceedings of Thursday, April 7, 1960, was dispensed with.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 10087. An act to amend the Internal Revenue Code of 1954 to permit taxpayers to elect an overall limitation on the foreign tax credit; and

H.R. 10959. An act relating to the employment of retired commissioned officers by contractors of the Department of Defense and the Armed Forces and for other purposes.

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred as indicated:

H.R. 10087. An act to amend the Internal Revenue Code of 1954 to permit taxpayers to elect an overall limitation on the foreign tax credit; to the Committee on Finance.

H.R. 10959. An act relating to the employment of retired commissioned officers by contractors of the Department of Defense and the Armed Forces and for other purposes; to the Committee on Armed Services.

LIMITATION OF DEBATE DURING MORNING HOUR

Mr. JOHNSON of Texas. Mr. President, under the rule, there will be the usual morning hour. I ask unanimous consent that statements in connection therewith be limited to 3 minutes.

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

Mr. JOHNSON of Texas. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that further proceedings under the call be dispensed with.

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

BILLS AND JOINT RESOLUTION INTRODUCED

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

By Mr. DOUGLAS:

S. 3355. A bill for the relief of Kie-Young Shim (also known as Pete Shim); to the Committee on the Judiciary.

By Mr. CHAVEZ:

S. 3356. A bill for the relief of Demetrios Nicolopoulos, Elizabeth Nicolopoulos, Dena Nicolopoulos, Panagiotis Nicolopoulos, George Nicolopoulos, Maria Nicolopoulos, and Helen Nicolopoulos; to the Committee on the Judiciary.

By Mr. LAUSCHE:

S. 3357. A bill for the relief of Renato Granduc O'Neal and Grazia Granduc O'Neal; to the Committee on the Judiciary.

By Mr. KEATING (for himself and Mr. DODD):

S.J. Res. 185. Joint resolution designating October 23 of each year as Hungarian Independence Day; to the Committee on the Judiciary.

(See the remarks of Mr. KEATING when he introduced the above joint resolution, which appear under a separate heading.)

RESOLUTION

ADDITIONAL COPIES OF FINAL REPORT OF SPECIAL COMMITTEE ON UNEMPLOYMENT PROBLEMS

Mr. McCARTHY submitted the following resolution (S. Res. 303); which was referred to the Committee on Rules and Administration:

Resolved, That there be printed for the use of the Special Committee on Unemployment Problems, three thousand nine hundred additional copies of its final report to the Senate pursuant to Senate Resolution 196, Eighty-sixth Congress (S. Rept. 1206, 86th Cong.).

DESIGNATION OF OCTOBER 23 OF EACH YEAR AS HUNGARIAN INDEPENDENCE DAY

Mr. KEATING. Mr. President, on behalf of the Senator from Connecticut [Mr. DODD] and myself, I introduce, for appropriate reference, a joint resolution to designate October 23 of each year as Hungarian Independence Day. Similar measures have been offered in the other body and I am pleased to add my voice to those who feel this Nation should recognize its solemn obligation to the martyrs of Budapest by means of a special day in their honor.

It was on October 23, 1956, that the Hungarian people rose as one man to fight—literally with their bare hands—their Soviet and Communist oppressors. The struggle which ensued thrilled and shook the world, as the courage and wit of the noble people of Hungary was pitted against the mechanized might of the Communist tyrants.

Although the Hungarian revolution of 1956 was short lived, its memory must not be allowed to die. Lovers of freedom everywhere must keep alight the bright flame of liberty which was kindled that day. We must recognize that wherever independence is threatened or suppressed in our world today is cause for alarm among the forces of freedom.

In particular, Mr. President, America shares close bonds of friendship with Hungary. The two nations share a common heritage of freedom and independence and America has benefited greatly from Hungarians who have come to our land and have contributed so much to our progress and strength. We join with the people of Hungary in our admiration for Kossuth and other champions of liberty. And today, we join men of good will everywhere in praying and hoping for the day when Hungary will once more take its place in the family of free nations.

By means of an annual celebration of Hungarian Independence Day we can give hope to the enslaved people of Hungary that their suffering is not forgotten. We can emphasize our allegiance to the cause of their freedom. Surely no more solemn obligation rests upon the shoulders of those of us who are lucky enough to live in freedom, than to encourage those who are denied that ultimate of man's ambitions. I therefore hope this joint resolution will receive the overwhelming support of Congress so that we can officially and formally recognize our fealty to the valiant people of Hungary.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

The PRESIDENT pro tempore. The joint resolution will be received and appropriately referred; and, without objection, the joint resolution will be printed in the RECORD.

The joint resolution (S.J. Res. 185) designating October 23 of each year as Hungarian Independence Day, introduced by Mr. KEATING (for himself and Mr. DODD), was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

Whereas the people of the United States and the people of Hungary have traditionally maintained strong bonds of friendship and understanding; and

Whereas the people of the United States and the people of Hungary have long shared a proud heritage of freedom and independence; and

Whereas the people of Hungary have been enslaved in recent years under the yoke of Communist domination directed by the Soviet Union; and

Whereas on October 23, 1956, the Hungarian people rose as one man against their Soviet and local Communist oppressors and shook the world with their heroic struggle for freedom; and

Whereas the willing sacrifice of life and the magnificent proof of valor that won for these patriots a short-lived independence was basely nullified by the perfidy of the official agents of the Kremlin; and

Whereas the people of the United States and the free world must give hope to the noble people of Hungary that their immense suffering under Communist domination is not forgotten and that we are working and praying for their day of liberation: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 23 of each year is hereby designated as Hungarian Independence Day, and the President of the United States is authorized and requested to issue annually a proclamation calling upon officials of the Government to display the flag of the United States on all Government buildings on such day and urging the people to observe the day with appropriate ceremonies.

RESTORATION OF FREEDOM TO CAPTIVE NATIONS—ADDITIONAL COSPONSORS OF CONCURRENT RESOLUTION

Under authority of the order of the Senate of April 1, 1960, the names of Senators LAUSCHE, DODD, and MCNAMARA were added as additional cosponsors of the concurrent resolution (S. Con. Res. 102) relating to restoration of freedom to captive nations, submitted by Mr. DOUGLAS on April 1, 1960.

ADDRESSES, EDITORIALS, ARTICLES, ETC., PRINTED IN THE RECORD

On request, and by unanimous consent, addresses, editorials, articles, etc., were ordered to be printed in the RECORD, as follows:

By Mr. ENGLE:

Article entiled "The China Problem Reconsidered," written by CHESTER BOWLES and published in Foreign Affairs magazine of April 1960.

By Mr. MCNAMARA:

Excerpts from testimony of witnesses before the Senate Subcommittee on Problem of the Aged and Aging, dealing with health problems of senior citizens.

GERALD DEGNAN AND OTHERS

Mr. BARTLETT. Mr. President, on March 28 the Senate approved my bill, S. 684, for the relief of Gerald Degnan, William C. William, Harry Eakon, Jacob Beebe, Thorvald Ohnstad, Evan S.

Henry, Henry Pitmatalik, D. LeRoy Kotila, Bernard Rock, Bud J. Carlson, Charles F. Curtis, and A. N. Dake. After passage of this measure it was discovered that in printing the bill as reported by the Senate Committee on the Judiciary, a typographical error was made in the spelling of the name of one of the claimants.

Therefore, Mr. President, I ask unanimous consent that the vote by which S. 684 was agreed to be reconsidered, that the spelling of the name on page 2, line 8, be corrected to show the correct spelling of the name as "Thorvald," and that the title be amended to show the correct spelling of the name.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and, without objection, the vote by which the bill was passed is reconsidered, the correction in the name will be made, and the bill as thus amended will be considered as passed.

The bill as passed is as follows:

S. 684

A bill for the relief of Gerald Degnan, William C. William, Harry Eakon, Jacob Beebe, Thorvald Ohnstad, Evan S. Henry, Henry Pitmatalik, D. LeRoy Kotila, Bernard Rock, Bud J. Carlson, Charles F. Curtis, and A. N. Dake

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the persons enumerated below the sums specified, in full settlement of all claims against the Government of the United States as reimbursement for personal effects destroyed as a result of the fire which occurred on October 2, 1958, at Sherman, Alaska, when the claimants were employed by The Alaska Railroad; Gerald Degnan, $286.83; William C. Williams, $755.92; Harry Eakon, $342.49; Jacob Beebe, $743.85; Thorvald Ohnstad, $1,556.32; Evan S. Henry, $199.68; Henry Pitmatalik, $472.22; D. LeRoy Kotila, $217.70; Bernard Rock, $729.79; Bud J. Carlson, $313.05; Charles F. Curtis, $1,111.69; and A. N. Dake, $93.40.

SEC. 2. No part of the amounts appropriated in this act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with these claims, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

DEATH OF LOWELL MELLETT

Mr. GRUENING. Mr. President, the Nation is grievously poorer because of the death of Lowell Mellett. There are relatively few Members of Congress whose service extends back a few years who did not know him either personally or by reputation, and, whether personally or by reputation, that knowledge brought into their lives a journalist of character, of enlightenment, of vision. He served in his lifelong profession of journalism with outstanding distinction, and through his profession served and embodied all the principles and purposes which have made America great. His personality radiated charm and kindliness, but his gentle spirit never diminished the perspicacity and shrewdness of his judgment about men and public affairs.

As the Washington Post says this morning in a most excellent editorial, Lowell Mellett "could never withhold kindness from the younger men and women coming up in his trade," his trade being newspapering, in which he ran the gamut of services from that of reporter to that of managing editor, and, continues the editorial, "he infused warmth into all his human relations."

It is equally true, as his fellow newspaperman who wrote the editorial, says:

His death will bring direct and personal bereavement to numberless friends and newspaper colleagues—and to many more who knew him well even if they knew him only because they had been his readers.

I ask unanimous consent that the biographical sketch from yesterday's Washington Daily News, the Scripps-Howard paper of which Lowell Mellett was the first editor, a position he resigned after serving in it brilliantly and thereby starting that daily on its vigorous and enduring course, because he found himself not wholly in sympathy with the chain's policies relating to the administration of President Franklin Delano Roosevelt, between whom and Lowell Mellett there was deep mutual respect, admiration, and affection; the biographical sketch in last night's Washington Star; the Associated Press dispatch from this morning's New York Times; the editorial from today's Washington Post, and two editorials from today's Star and Washington News, be printed at this point in the RECORD.

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

[From the Washington Post, Apr. 8, 1960]

LOWELL MELLETT

Lowell Mellett was a wisp of a man whose wiry, almost frail, body embraced a spirit of extraordinary toughness, resiliency, and fire. A newspaperman for a full threescore years, from his boyhood until his recent retirement, he exemplified the best and most robust traditions of a craft he deeply loved. There was not much about newspapering he didn't know from firsthand experience. A city reporter on papers in small and large cities all over the country, a wire service man, a war correspondent, a bureau chief, an editor, a columnist—Lowell Mellett filled all these journalistic jobs with zest, with distinction and with honor.

Such ranging experience gave Lowell Mellett a salty and hard-bitten shrewdness about life. An enthusiasm for social reform and for the ideas of the New Deal led him from observation of politics to participation as an adviser and assistant to President Roosevelt. He contributed to the Roosevelt administration probing insights into politics and people, a skilled newspaperman's knowledge about the communication of ideas and an inexhaustible personal devotion. He was not a dominant figure in the New Deal but he was a significant figure, representative of its idealism and its interest in human beings.

With indifferent success, Lowell Mellett sometimes tried to cover up his characteristic gentleness and generosity with a surface frostiness and a rather mordant wit. But he could never withhold kindness from the younger men and women coming up in his trade; and he infused warmth into all his human relations. His death will bring direct and personal bereavement to numberless friends and newspaper colleagues—and to many more who knew him well even if they knew him only because they had been his readers.

[From the Washington Daily News, Apr. 7, 1960]

LOWELL MELLETT, AID TO FDR—THE NEWS' FIRST EDITOR DIES AT 76

Lowell Mellett, the first editor of the Washington Daily News, and adviser to President Franklin D. Roosevelt, died last night of congestive heart failure at the Washington Hospital Center. He was 76.

Mr. Mellett, who lived at 2122 Massachusetts Avenue NW., had been admitted to the hospital yesterday at noon. His daughter, Mrs. Dexter Keezer, of New York City, was at his bedside when he died at 8:10 p.m.

SERVICES

Funeral arrangements are being made by Gawler's, 1756 Pennsylvania Avenue NW. Friends are invited to a memorial service at 3 p.m. Sunday in the Cosmos Club auditorium, 2121 Massachusetts Avenue NW. Burial will be private.

In addition to his daughter, Mr. Mellett is survived by a brother, John, of Indianapolis; two granddaughters, Mrs. Benjamin H. Read, of 416 Paul Spring Road, Alexandria, and Miss Berthe M. Keezer, of Boston, and four great-grandchildren.

The family requests that no flowers be sent, but that contributions be made to the "Needy Sick Fund," at the Washington Hospital Center.

HOOSIER

Mr. Mellett was born in Elwood, Ind., and began his journalistic career before finishing high school. At various times, he worked for newspapers in Parkersburg, W. Va., Indianapolis, St. Louis, Wheeling, W. Va., Cincinnati, New York, and Seattle, where he was editor of the Sun from 1913 to 1915.

In 1916 he was appointed manager of the Washington bureau of United Press (now United Press International), and in 1917 was sent abroad as assistant European manager of United Press, with headquarters in London. Later that year he was detached from managerial duties to become a correspondent with the World War I American, British, and French Armies in the field.

During this period he made the telegraphic arrangements which permitted the United Press consistently to beat its opposition in transmission of communiques from Paris to the cablehead at Brest, France, and thence to the United States. Near the end of the war he accompanied British Gen. Edmund Allenby's forces into Jerusalem.

WITH COLLIER'S

In 1920, Mr. Mellett served as managing editor of Collier's magazine for a brief period before being appointed first editor of the Washington Daily News. The first edition of the newspaper appeared November 8, 1921.

In 1925, he became manager of the Scripps-Howard Newspaper Alliance, the Washington bureau serving the Scripps-Howard newspapers, but continued as editor of the News, as well.

Among the men who worked under Mr. Mellett on the News were Walker Stone, present editor in chief of the Scripps-Howard newspapers; Ernie Pyle, who was managing editor from 1932 until 1935 when he began writing his famous column; and John T. O'Rourke, the present editor of the News, who was managing editor when Mr. Mellett left the paper and who succeeded him as editor.

TRAINED SO WELL

Today, Mr. O'Rourke said:

"Much of the paper's character derives from Lowell Mellett, not only directly from him, because he was the editor for so many

years, but indirectly because of the men he trained so well.

"His humanitarianism guided every story and policy always, and he imparted to all of us who worked with him a sense of responsibility which every reporter and subeditor should have.

"There are newspapermen all over the world who worked under him at one time or another, and they will all mourn him as deeply as we all do here, and remember him with deep admiration and affection."

AIDE TO F.D.R.

In 1937, President Roosevelt persuaded Mr. Mellett to join the administration as director of the National Emergency Council.

In actuality, Mr. Mellett was the first of Mr. Roosevelt's anonymous assistants, but there was as yet no such administrative position.

Later, Mr. Mellett headed the Office of Government Reports, while still serving as a special adviser to the President. In 1940, he became an administrative assistant to the President in name as well as in fact.

WORLD WAR II

After the United States entered World War II, Mr. Mellett opposed the plan to unify information services in the Office of War Information, although there were constant rumors that if there was to be such an organization, he would be its chief.

Finally, when his opposition was to no avail, and the OWI was set up, Mr. Mellett was prepared to leave Government service. Mr. Roosevelt, however, persuaded him to stay on and to lend his support to the OWI's director, Elmer Davis.

In 1944, with the war nearing its close, Mr. Mellett resigned his position, and returned to journalism. For some years thereafter he wrote a syndicated column from Washington, which appeared in the Evening Star.

TRIBUTE

B. M. McKelway, editor of the Star, said today:

"All of us in the newspaper business will be saddened by Lowell Mellett's death. He made his mark as editor, as a columnist, as a presidential adviser, bringing a liberal, sensitive spirit to each area of his activity. Few of us have such varied opportunities, or live up to them so well."

J. Russell Wiggins, executive editor of the Washington Post and Times Herald, commented:

"He was one of the great newspapermen of the country and of Washington. He was a gifted writer and a brilliant editor whose work in both fields will long be remembered in his profession. He was, besides, a distinguished public servant who had a professional understanding of politics and Government and an accurate perception of the social and economic problems of the country.

"He had, moreover, a unique capacity for friendship and the area of those who counted him as a friend was constantly widening, even in his later years. He devoted much of his time to the interests of former colleagues and associates and it was characteristic of him that in his declining months he was much concerned with the Thomas Stokes Memorial Fund, which he served as chairman of the board until only a week ago."

Mr. Mellett was the brother of Don K. Mellett, one of the true martyrs of American journalism, who was shot to death some 35 years ago by racketeers against whom he was campaigning in the Canton, Ohio, newspaper of which he was editor.

[From the Washington Evening Star, Apr. 7, 1960]

LOWELL MELLETT DIES; NOTED CAPITAL NEWSMAN

Lowell Mellett, 76, a former top assistant to President Franklin D. Roosevelt and for years a leading figure in Washington journalism, died last night at the Washington Hospital Center.

He was admitted to the hospital yesterday morning. For a long time he had been suffering from a heart condition.

Mr. Mellett was first and last a newspaperman. From 1921 to 1924 and from 1928 to 1937 he served as editor of the Washington Daily News. In the intervening years he was an executive of the Scripps-Howard Newspaper Alliance. He resigned as Daily News editor because, he said, his boss—Roy W. Howard—didn't like Mr. Roosevelt.

He served the New Deal in a number of positions from 1938 to 1944; then he resigned to write a column for the Star. His column, entitled "On the Other Hand," appeared in this paper until 1956.

ZEALOUS NEW DEALER

Since then he lived quietly in retirement at his home, 2122 Massachusetts Avenue NW.

Mr. Mellett was a zealous New Dealer and a frank spokesman for the liberal cause. As could be expected, he made enemies, particularly from the extreme right wing.

A slim, quiet spokesman with a rather bashful manner, Mr. Mellett had a way of disarming his detractors. But his conservative clothes and unobtrusive manner belied his capability for the wry, devastating phrase.

He was born February 28, 1884, in Elwood, Ind., where his father, Jesse Mellett, was editor and publisher of the Elwood Free Press.

BROTHERS ACHIEVE NOTE

Three of his brothers also achieved distinction. One, John C. Mellett, has written many novels under the pen name of Jonathon Brooks. Another, Don Mellett, was slain in 1926 while conducting a news campaign against vice in Canton, Ohio. The third brother, Homer J. Mellett, was research director for the Indianapolis News until his death in 1949.

Lowell Mellett began his newspaper career before completing his high school education. At the age of 16 he was sent to cover the Democratic National Convention in Kansas City as a high school correspondent for the Muncie (Ind.) Star.

STARTED ON PATH EARLY

His coverage of that convention set him firmly on the path he was to follow the rest of his life.

When he was 17 Mr. Mellett was city editor of the Parkersburg (W. Va.) State Journal. The next year he was city editor of the Wheeling (W. Va.) Intelligencer. Then he moved on to the Indianapolis News, where he worked for a year as a reporter.

His next step up the journalistic ladder was as a rewrite man on the St. Louis Post-Dispatch. The following year he was a legislative and political reporter on the Cincinnati Post. From there he went briefly to New York as a rewrite man on Joseph Pulitzer's Evening World. He returned to Indianapolis for 2 years and then spent 5 years in Tacoma and Seattle, Wash.

MEETS SCRIPPS-HOWARD HEAD

It was in Seattle that Mr. Mellett met Mr. Howard, the top man in the Scripps-Howard newspaper chain.

In 1915 Mr. Mellett came here as manager of the Washington bureau of the United Press. He was assistant European manager for the U.P. from 1916 to 1919, and during that time served as correspondent with American, British, and French Armies. He also covered the surrender of the German fleet and was one of the staff reporting the Paris peace conference.

He left Scripps-Howard to become editor of Collier's Weekly in 1919. But he rejoined the newspaper chain in 1921 when he was named the first editor of the Washington Daily News and manager of the Washington bureau of Scripps-Howard newspapers.

ENTERS GOVERNMENT SERVICE

After Mr. Mellett resigned from the editorship of the Daily News, he was appointed executive director of the National Emergency Council. The Council had been created early in the New Deal to act as a clearinghouse and coordinating body for the multitude of emergency agencies and activities stemming from the depression.

In 1940 Mr. Mellett was named an administrative assistant to President Roosevelt. In addition to that position, he also served as head of the Motion Picture Bureau of the Office of War Information.

The late Charles G. Ross, press secretary to President Truman, called Mr. Mellett "a power in the Government—one of the half-dozen men closest to the President * * *."

As a natural corollary of that power, however, came criticism. In the yellowing newspaper clippings there are references to Mr. Mellett as "the most dangerous man in Washington." And when Mr. Mellett headed the Office of Government Reports jesters called the agency "Mellett's Madhouse" or the "Office of Fuss and Feathers."

In March 1944 Mr. Mellett's resignation from the Government was announced with the familiar exchange of "Dear Lowell" and "Dear Mr. President" letters.

Mr. Mellett's letter said: "I'd like to renew my request that I be permitted to resign and return to newspaper work. I honestly believe I can be as useful doing that as I would be in more obvious public service. If I can contribute a little bit toward popular understanding of the problems facing the country I am sure this is so.

STAR OFFERS OPPORTUNITY

"The Washington Star offers me the opportunity to test this notion. In full understanding of my views and in full disagreement with many of them, the Star is prepared to publish what I may write."

Mr. Roosevelt, telling his adviser to "go ahead and try it," said: "Seriously, I am very much impressed by what you tell me concerning the readiness of the Washington Star, and perhaps other newspapers, to publish points of view contrary to their own."

And so for 12 years Mr. Mellett's column was printed in the Star.

As he began his career as a columnist, Mr. Mellett said: "I believe that I have considerable tolerance for the views of other people. That may be the keynote of my column."

LIVED IN ALEXANDRIA

For many years Mr. Mellett lived in a house on several oak-shaded acres on Quaker Lane opposite the Virginia Episcopal Theological Seminary in Alexandria. Some time after the death of his wife, the former Berthe Knatvold, in 1938, Mr. Mellett moved into the city.

Upon learning of Mr. Mellett's death, B. M. McKelway, editor of the Star, said:

"All of us in the newspaper business will be saddened by Lowell Mellett's death. He made his mark as an editor, as a columnist and as a presidential adviser, bringing a liberal, sensitive spirit to each area of his activity. Few of us have such varied opportunities or live up to them so well."

MEMBER OF CLUBS

Mr. Mellett was a member of the Cosmos Club, the Gridiron Club, and the National Press Club.

He leaves a daughter, Mrs. Anne M. Keezer, of New York City; two granddaughters, Mrs. Benjamin H. Read, 416 Paul Spring Road, Alexandria, and Miss Berthe M. Keezer, of Boston; a brother John, of Indianapolis; and four great-grandchildren.

Funeral services will be held at 3 p.m., Sunday, in the auditorium of the Cosmos Club. Burial will be private. The family requests that expressions of sympathy be in the form of contributions to the needy sick fund of the Washington Hospital Center.

[From the New York Times, April 8, 1960]

LOWELL MELLETT, EX-U.S. AID, DIES—ADMINISTRATIVE ASSISTANT TO ROOSEVELT, 1940-44—WAS A FORMER NEWSPAPER EDITOR

WASHINGTON, April 6.—Lowell Mellett, newspaper executive and a former assistant to President Franklin D. Roosevelt, died here Wednesday night in a hospital after a long illness. He was 76 years old.

KEY FIGURE IN CAPITAL

Mr. Mellett was a key figure in Washington during the years before and during World War II. He was successively Director of the National Emergency Council in 1937-38, Director of the Office of Government Reports from 1939 to 1942 and Coordinator of Government Firms, a post he assumed in December 1941, in addition to his other duties.

He was one of President Roosevelt's immediate circle of administrative executives during this period and was Administrative Assistant to the President from 1940 to 1944.

Although Mr. Mellett had been a newspaperman all his life, his widespread activities and enthusiastic endeavors in behalf of New Deal policies frequently made him a target of the opposition.

Himself a columnist, he was one of the favorite butts of the dissenting column writers of those days, who sometimes referred to his information office as "Mellett's madhouse," and in other similarly caustic ways.

The attack on Mr. Mellett was at its height in 1942, when congressional opponents of the New Deal called the new building of the information services "a $600,000 boondoggle."

AMBASSADOR TO HOLLYWOOD

"Lowell Mellett's recent trial balloon on the subject of double features appears now to be covered by the phrase 'one of our aircraft is missing,'" a Hollywood feature man wrote in 1943. "Chief of the Motion Picture Bureau of the Office of War Information, or more simply, United States ambassador to Hollywood, Mr. Mellett called upon the picture industry to abolish twin bills for the duration. But to date, the industry has taken no steps—it isn't even shuffling its feet."

Mr. Mellett had to endure a great deal in the same vein, but he continued to carry out the Government's policies as he felt that the President wanted it done. In 1942 he brought out a special manual of information for businessmen having dealings with Washington, and in 1946 his Handbook of Politics was published. One reviewer called it a powerful little book.

"This is a handbook on how to get rid of a Congressman who has turned out to be a mistake," Mr. Mellett wrote in it.

After the war he became managing editor of Collier's Weekly, and later editor of the Washington Daily News, a post he held until 1937. From 1925 until 1937 he was manager also of the Scripps-Howard Newspaper Alliance. Mr. Mellett joined the Government in the latter year.

Mr. Mellett resigned his Government posts in March 1944 to become a columnist for the Washington Star. His column, later carried by the Bell Syndicate, had appeared in the Post in this city. He gave up the work in 1956 because of ill health.

Mr. Mellett was a widower.

[From the Washington Star, Apr. 8, 1960]

LOWELL MELLETT

Some of those who admired him most regretted Lowell Mellett's decision, in 1937, to leave newspaper work. For he was cut out to be a newspaperman. He was a good one, and the best of his years as a newspaperman were the 16 he spent as the first editor of the Washington Daily News which he helped to establish in 1921.

He was drawn to Franklin D. Roosevelt by a deep personal loyalty and perhaps a sense of duty. But as one of the original "anonymous assistants" at the White House and as a public official in other positions, he always seemed slightly out of character. When he returned to newspaper work, writing a column of comment for the Star and other newspapers, an intense partisanship overshadowed the ability to examine both sides of a coin which had contributed to his original success in journalism.

His death at 76 recalls memories not so much of his long career as of his gentleness, his generosity and his sense of compassion that were among his many fine qualities as a man.

[From the Washington Daily News, Apr. 8, 1960]

LOWELL MELLETT

All organizations, whether they are symphony orchestras or baseball teams, armies, universities or militant religions, have fire, poise, dash, character or creative verve—or lack those or other qualities—because of the personalities of men who shaped their basic structure during a formative time.

Newspapers are like that, too.

This newspaper was very fortunate, because its first editor was Lowell Mellett.

Mr. Mellett died yesterday. He was 76. He left the paper in 1937. We can't recall that he ever came into the city room since that day.

But, when he cleaned out his desk and went away, neither did he depart in an absolute sense at all, for his high standards of professional behavior remained imprinted on those who had worked with him, influencing their editorial and writing techniques, and their ethical precepts.

Lowell Mellett was a partisan, but always on the humanitarian side. One could disagree with him, but unquestionably respected the motives that formed his judgments. Indeed, the reason he left the News was because of a profound policy disagreement; over the issue which history now knows as President Roosevelt's "court packing" plan.

His resignation in those controversial New Deal days was a measure of the depth of his convictions, but reflected no personal prejudice on either side, and his fellow Scripps-Howard editors retained an abiding affection for him, and he for them.

Crusader as he was, Lowell knew how to needle an opponent, but he knew when to be kind, too. Editors are supposed to be old curmudgeons, crankily pencil-marking galley proofs and snarling at dandruffy old copy readers.

Lowell had none of that in him; he gave you a job to do, outlined it, and left you alone. You were supposed to bring it off. In that sense, he was an exacting but ideal boss.

Editing the Washington Daily News was probably the biggest part but by no means all of his very full life. He had been well seasoned on newspapers from Seattle to New York, and tempered by duties abroad with the United Press, both as a bureau executive and as a field correspondent in World War I.

After his stint as one of Mr. Roosevelt's "passionately anonymous" secretaries, he returned to newspaper work, writing a column of syndicated political comment which appeared here in Washington in the Evening Star, until failing health brought retirement.

He gave all of us who worked with him a feeling of the importance of our jobs, of the great good that it was possible for a newspaperman to do if he did his job right, and of the great harm he could do if he did it badly. He made all of us aware of the vulnerability of the ordinary man, and of the need for newspapermen to listen to the plights and problems of little people, and to be their champion. Without being the least bit stuffy about it, he gave us a sense of dedication.

We read a line in a book about Justice Oliver Wendell Holmes which could stand as the epitome of Lowell Mellett's life; in Catherine Drinker Bowen's "Yankee From Olympus" appears:

"Life is action and passion; therefore it is required of a man that he should share the passion and action of his time, at peril of not to have lived."

Lowell Mellett lived; as a newspaperman he took part in the great controveries of his time to the utmost of his abilities, and always his partisanship was animated by the highest motives.

We're proud of our first editor and we mourn his departure. We won't forget him.

Mr. MONRONEY. Mr. President, on Wednesday a distinguishhed Washington newspaperman died. He was the first editor of the Washington Daily News, a Scripps Howard newspaper.

Mr. Mellett spent 16 years in this post, building this independent and readable newspaper, and then went on to become a syndicated columnist, in 1956, writing the column "On the Other Hand." This column appeared locally in the Washington Star.

A great newspaper family were the Melletts. His father was a newspaperman, and all of the five brothers engaged in newspaper work and in writing. One brother, Don Mellett, was murdered by gangsters as he led the crusade of his Canton, Ohio, newspaper against vice in that city.

Lowell Mellett first came to Washington in 1915, to take over the management of the United Press bureau here. Later, he became assistant manager of the service's European bureau, and served it as a war correspondent with the American, French, and British forces, during World War I.

For 1 year, Mr. Mellett served as editor of Collier's Weekly, and then returned to the Scripps Howard newspapers, to take over the establishment of the Daily News. In true Scripps-Howard fashion, he doubled in office, to serve also as manager of the Scripps-Howard Washington bureau.

A simple detailing of his formal newspaper service, however, would fail indeed to spell out the impact of his life on Washington. He was a great friend, a confidant, and I expect, an adviser to President Roosevelt throughout the early New Deal days, and, later throughout the war years. The impact of his thinking, experience, and wisdom as a member of the Roosevelt inner circle was always a matter of loyal service, without any desire to retire and write a book about the White House secrets.

As founder of the Office of Government Reports and Chief of the Office of War Information's Motion Picture Service, Mr. Mellett gave the Government and the Congress the facts about the mushrooming activities of all departments and bureaus of the Government in meeting or adjusting to the great war effort. Those small reports, factual and concise, set a high mark that has never been equaled in Government reporting.

He was a man who was a genuine liberal, and who did not need to wear a fraternity pin of liberalism to prove it.

As chairman of the Tom Stokes Memorial Fund—and he served in that position until only a week ago—he carried on in Washington as a newsman who felt that the Nation needed "both sides of the story," instead of only one. He sought always to make sure that the liberal point of view would not disappear from the journalistic stage.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD, as parts of my remarks, an editorial about Mr. Mellett's life being published today in all the Scripps-Howard newspapers and an article about Mr. Mellett's life and services published today in the Washington Post. I call the attention of my colleagues to the editorial published today in the Washington Daily News, the Washington Post and Times Herald, and the Washington Star which have been previously inserted by the Senator from Alaska [Mr. GRUENING].

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

[From the Scripps-Howard Newspaper Alliance]

LOWELL MELLETT

The measure of a newspaper editor is the imprint he makes on his community and his times. By that measure, Lowell Mellett, who died in Washington at the age of 76, was an outstanding editor.

He was better known to a generation now gone, but there are hundreds of newspapermen throughout the United States who had the pleasure and privilege of working with Lowell Mellett and who knew him as a master of his craft and a fine and sensitive human being.

To his subordinates, he imparted a feeling of their own competence—the hallmark of a good executive.

To other editors, many of whom disagreed with him, he gave and commanded respect.

An old-fashioned radical, he was the champion of the underdog, the foe of entrenched wealth, the deflator of stuffed shirts.

We knew him well as the editor of Scripps-Howard's Washington Daily News in its formative years. We loved him and are saddened by his departure.

[From the Washington Post, Apr. 8, 1960]

LOWELL MELLETT, NEWSMAN, DIES

(By Harry Gabbett)

Lowell Mellett, veteran editor, columnist and White House confidant of President Franklin D. Roosevelt, died in Washington Hospital Center Wednesday of a heart ailment.

Burial will be private, but friends are invited to a memorial service scheduled for 3 p.m. Sunday in the auditorium of the Cosmos Club. Members of the family asked that expressions of sympathy be made in the form of contributions to Washington Hospital Center's Needy Sick Fund.

Mr. Mellett spent 16 years (1921–37) as the first editor of the Washington Daily News, and from 1944 until his retirement in 1956 his syndicated column, "On the Other Hand," appeared locally in the Star.

Mr. Mellett was born 76 years ago in Elwood, Ind., the son of a newspaperman and one of five brothers who followed writing careers. One of them, Don Mellett, was slain by gangsters in 1926 while spearheading a newspaper crusade against vice in Canton, Ohio. Of the brothers, only John, a novelist under the pen name, Jonathon Brooks, survives.

REPORTER AT 13

Mr. Mellett's assignment to cover the Democratic National Convention in Kansas City for his high school paper at the age of 13 spelled the end of his formal schooling. His convention dispatches also caught the eye of key men in his chosen profession and his rise in the field was rapid.

A succession of rather brief stints as a reporter or editor took him to newspapers in Muncie, Ind., Indianapolis, St. Louis, Cincinnati, New York and Seattle. He was city editor of the Parkersburg (W. Va.) State Journal at the age of 17.

It was on the west coast, as editor of the Seattle Sun, that he met both Berthe Knatvold, who became his wife in 1914, and Roy W. Howard, of the Scripps-Howard newspaper chain, who solidified his place in the journalistic sun.

Mr. Mellett came to Washington in 1915 as head of the United Press Bureau. The following year he was made assistant manager of the service's European bureau, also serving it as World War I correspondent with the American, French, and British forces.

EDITOR OF COLLIER'S

After covering the German surrender and the Paris peace conference, Mr. Mellett interrupted his 20-year Scripps-Howard association with a 1-year hitch as editor of Collier's weekly, now defunct.

He returned to Washington in 1921 to head establishment of the Daily News and double throughout his editorship as manager of Scripps-Howard's local bureau.

Commenting on Mr. Mellett's passing yesterday, News Editor John T. O'Rourke, who served under him, recalled that "there are newspapermen all over the world who worked under him at one time or another and they will all mourn him as deeply as we do here, and remember him with deep admiration and affection."

"He was one of the great newspapermen of the country and of Washington," agreed J. R. Wiggins, executive editor of the Washington Post. "He was a gifted writer and a brilliant editor whose work in both fields will long be remembered in his profession. He was, besides, a distinguished public servant who had a professional understanding of politics and government, and an accurate perception of the social and economic problems of the country.

HEADED STOKES FUND

"He had, moreover, a unique capacity for friendship and the area of those who counted him as a friend was constantly widening, even in his later years. He devoted much of his time to the interests of former colleagues and associates, and it was characteristic of him that in his declining months he was much concerned with the Thomas Stokes Memorial Fund, which he served as chairman of the board until only a week ago."

"He made his mark as an editor, as a columnist, and as a Presidential adviser, bringing a liberal sensitive spirit to each area of his activity," commented B. M. McKelway, editor of the Washington Star. "Few of us have such varied opportunities or live up to them so well."

From New York City, Mrs. Franklin D. Roosevelt sent word that she was "terribly sorry" to hear of Mr. Mellett's death. "I remember him well from the days we were in Washington, and I know my husband had a high regard for him."

JOINED NEW DEAL

President Roosevelt's high regard for Mr. Mellett was a determining factor in the editor's decision to join in 1940 the New Deal's inner circle of aides who became storied in their day for their passion for anonymity. Two years before that he had resigned from the News to accept appointment as director of Government Reports and Chief of the Office of War Information's Motion Picture Division.

Probably in no other of F.D.R.'s famed coterie of advisers did the passion for anonymity burn more fiercely. Mr. Mellett was by nature a quiet, soft-spoken man, shy almost to the point of bashfulness.

Though he sidestepped diligently, the brash political spotlight sought him inexorably and he found himself often in the headlines of someone else's making—usually in the role of a partisan target which proved to have no bull's-eye.

CALLED MOST DANGEROUS

In the same public prints which reported his quiet accomplishments appeared the howls of those who considered him "the most dangerous man in Washington," and half-serious jesters dubbed his Office of Government Reports in the 1400 block of Pennsylvania Avenue NW. "Mellett's Madhouse" and "The Office of Fuss and Feathers."

He left politics in 1944 to return to his first love, newspapering, and his column of trenchant comment on the ensuing political scenes persisted for the next 12 years.

For many of his years in Washington, Mr. Mellett resided on several acres in the Quaker Lane section of Alexandria, but some months after his wife's death in 1937, he moved to 2122 Massachusetts Avenue NW., his residence when he died.

Surviving besides his brother, John, of Indianapolis, are a daughter, Anne M. Keezer, of New York City, and two granddaughters, Mrs. Benjamin H. Read, of 416 Falls Spring Road, Alexandria, and Berthe M. Keezer, of Boston.

UNEMPLOYMENT PROBLEMS

Mr. CLARK. Mr. President, a few days ago the Special Committee on Unemployment Problems, on which I was privileged to serve, made its report on unemployment in the United States. In our report, we attempted to draw a picture of the distress and despair that exist in many parts of our rich country because of the decline of established industries resulting from factors beyond the control of the people who live in those areas.

Yet nothing we said in that report described the situation in these areas as eloquently as a series of letters which I have received from members of the graduating class of the high school at Nesquehoning, Carbon County, Pa., in the heart of the anthracite area.

These young men and women are asking for help to save the beautiful Panther Valley from becoming a row of ghost towns. As they point out, if one industrial plant could locate in their valley—which has transportation, power, and labor resources—they would be saved.

The area redevelopment bill, which passed the Senate last year, would help to create new industry in communities such as the Panther Valley of Pennsylvania.

In the hope that these letters might be read by members of the House of Representatives, who will consider that bill soon; perhaps by the advisers to the President of the United States, before whom that bill will come for approval and who vetoed a similar bill in 1958; perhaps even by some business executive who is looking for a site for location of a plant, I ask unanimous consent that

these letters may be included at this point in the RECORD as a part of my remarks.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NESQUEHONING, PA.,
March 31, 1960.

Hon. JOSEPH S. CLARK,
U.S. Senate,
Washington, D.C.

SIR: I am a senior student at the Nesquehoning High School. Since graduation time is almost here, I have begun to think about the future. It doesn't seem too bright. The economic conditions in our beautiful valley are very poor. Most of my classmates are going away from the valley to find jobs because there is no work here for the adults, let alone teenagers.

Many would like to go away to colleges, but their parents have been out of work for such a long time that it has just become a dream.

Nesquehoning has all the facilities that any industry would want. We live in a valley; we have a railroad going through town; we have good roads; we have a powerplant; and, most important of all, we have the laborers, who are eager to work.

Here in the United States we have a foreign-aid plan to help needy countries abroad. Yet, we are a needy and distressed area and can't seem to get any help from our own Government.

Can't you, our Senator, help us? Just one big industry would serve the purpose.

If my letter at least makes you realize the conditions in our valley, then its purpose has not been in vain.

Will you please give our economic problem some constructive thought?

Respectfully yours,

MARIE MAURO.

NESQUEHONING, PA.,
March 30, 1960.

The Honorable JOSEPH S. CLARK,
U.S. Senate,
Washington, D.C.

SIR: I am a senior in the Nesquehoning Junior-Senior High School. What is my future? What am I to do? There is no future in Panther Valley. Right now it is a very distressed area without employment. I'm sure if nothing is done within another few years Panther Valley, including Nesquehoning, Lansford, Coaldale, and Summit Hill, will become "ghost towns."

We have excellent locations for industry; and if we had employment for at least 2,000 men, I'm sure people would no longer fear Panther Valley turning into a ghost region, and the future would look more bright.

Why are these towns so neglected and forgotten? An extremely high percentage of our men fought in our recent wars to help our country. We have helped so many other countries when they were in distress. Now we need help. Our returned veterans and their families need help desperately. We would like to go on living in this beautiful, but distressed area.

Please don't throw this aside as just another letter. This is so important to us. Will you do something constructive about it?

Respectfully yours,

SHARON KASHUHER.

NESQUEHONING, PA.,
March 24, 1960.

The Honorable JOSEPH S. CLARK,
The U.S. Senate,
Washington, D.C.

SIR: I am writing this letter to tell you how the working conditions are in Nesquehoning. All kinds of work have simply closed down.

I am a senior student at Nesquehoning High School. Graduation is not very far off, and I am looking toward my future.

Once the Nesquehoning Valley was very prosperous. There were many jobs, and everyone was working. Then suddenly everything fell apart. Couldn't you do something about this? This concerns a whole area. Some kind of defense plant in our valley?

We have all the facilities an industry could want. We have water power, railroads, space for new industries, a big labor supply and very good roads. What else would you need for an industry? Nesquehoning is a very clean town; the people are very industrious.

You can help us to become big tax payers once again. We are not asking for charity; we are merely asking for an opportunity to become productive again.

Respectfully yours,

MICHAEL DEGILIO.

NESQUEHONING, PA.,
March 31, 1960.

The Honorable JOSEPH S. CLARK,
The U.S. Senate,
Washington, D.C.

SIR: I am a senior in Nesquehoning Junior-Senior High School and a future citizen and taxpayer of Panther Valley. I will be graduating very shortly and then I would like very much to say what my plans are, but that is impossible since it is quite difficult for skilled workers to get work in the valley, I am quite sure I couldn't—a young graduate.

I realize now that I will have to leave the valley although I don't want to leave. At the present time my father is unemployed, and he is just one of over a thousand unemployed. I am writing this letter to try to express to you just how much our valley and the people in this valley need help. If it could just be possible to bring in an industry to this valley it would mean a great deal to all of us. Graduates wouldn't have to leave the valley; parents could give their children what they need and want. It seems so little to ask, but it means so much to so many.

Pennsylvania is a wealthy State; the United States is a wealthy country. Can either afford to let the economy of any one section fail completely? Is it good business?

The Governor and the people would benefit if the citizens of Panther Valley became productive again.

Please give my letter serious consideration. Try to use your influence and power to help us in a constructive way.

Respectfully yours,

PHYLLIS REGO.

NESQUEHONING, PA.,
March 31, 1960.

The Honorable JOSEPH S. CLARK,
The U.S. Senate,
Washington, D.C.

SIR: I am a senior in Nesquehoning Junior-Senior High School. I am about to graduate and as I look around, there just aren't many opportunities here. The people have to move from this beautiful town. What is going to be the future around here? From my viewpoint it is pretty dismal. The men don't have any jobs and they are growing older. Is a man in his forties really too old to work? I think it is a man's most productive years. Even the younger men can't find any work.

The United States has been so wonderful in helping other countries in distress, why can't the Government help the Panther Valley? All we need is a couple of good industries to make the town prosperous and productive again. We have the men who are willing and able to work. Is there any reason that the Government shouldn't help our handicapped area?

If we don't receive any help our lovely towns will turn into ghost towns. Thousands of people have already left our area. We don't want this wonderful valley to be left deserted. Times are getting rough, and if Uncle Sam has a heart, he will help us. Our Government has helped so many foreign countries. Our tax dollars have helped. Now we ask for aid.

This is one of the nicest places in the whole world to live in. Why must we move into crowded cities? One or two basic industries could change our picture completely.

Please don't say that this is not your concern or your department. That has been said so many times. Will you please give this matter your serious consideration?

Respectfully yours,

SARAH MOLINARI.

NESQUEHONING, PA.,
March 30, 1960.

The Honorable JOSEPH S. CLARK,
U.S. Senate, Washington, D.C.

SIR: I am a resident of Nesquehoning, Pa. Our town is situated on the edge of the coal-mining area. We believe that it is one of the most beautiful sections of the State, and I am sure you would agree with me if you visited our area. As you know, when the coal mining industry closed down, Nesquehoning and all surrounding towns were affected. Men were thrown out of work with no way to turn. The women of the valley had to go out and get jobs to support their families. When that happened, we were reaching the end of our rope. The answer: New industry.

Our valley is ideal for a new industry. We have railroads, water, a powerplant, which is operating at about half its capacity, excellent highways, but most important of all, we have manpower. I feel that if one sizable industry were directed into our valley, most of our problems would be solved—and I do mean problems. Our country has helped other countries by lending them millions of dollars, and as taxpayers we were willing to help countries in distress. We here in the now-idle coal mining area do not want millions. We just want a chance to work, just one big industry would help. Just one.

With the help of God and our Government, our prayers will be answered.

Respectfully yours,

JOHN VALUSEK.

NESQUEHONING, PA.,
March 24, 1960.

The Honorable JOSEPH S. CLARK,
The U.S. Senate, Washington, D.C.

SIR: I am a senior in the Nesquehoning Junior-Senior High School; and when I graduate, I would like to stay in my hometown. However, when you look around and see the employment situation of our town, I wonder if there is any future here for me or any of my fellow classmates. Just to think of how our town was years ago and how it looks today gives anybody that sad feeling of what could become of our town.

When you look around and see so many idle men leaving their homes and families to go to a distant town or city for a job it paints a pretty sad picture. If some kind of basic industry would come into our town, our problem would be solved.

Nesquehoning is a beautiful and clean little town, but we do need industries; so whom can we turn for help if not our elected governmental representatives? All the mines have closed completely. We are a very distressed area. Wage earners with large families have lost their jobs and are unable to obtain employment anywhere. Is a man really too old to work at 40? This is tragic.

We as taxpayers have helped so many needy countries abroad. Now we ourselves

need help. We want to work and to be independent again. Would it be possible to route one big defense plant into our valley? Just one big plant would solve the problem of our whole valley. It may seem so little yet it means so much. Are we the forgotten area?

Please give this your serious thought and consideration.

Respectfully yours,

ROSE ROMAN.

NESQUEHONING, PA.,
March 29, 1960.

The Honorable JOSEPH S. CLARK,
The U.S. Senate,
Washington, D.C.

SIR: On June 3 of this year I shall graduate from Nesquehoning High School. Graduation, I suppose, should be a day I can look forward to. But how can I? Graduation does mean an extra expense for my family, and the families of my classmates. We are going to find this extra expense hard to meet. There is also the senior prom. Being like any other girl, I would like a new dress. But how would I feel getting a new dress and then my sister or brother would have to do without something in order that I may get it?

This is only a small example of some of our problems here. Many people have to worry about how they are going to pay for household expenses, much less something like graduation.

The point of my letter is that we need help desperately. The people of Nesquehoning are good-living, hard-working people—people who really deserve the consideration and help you may be able to get for us.

Senator CLARK, isn't there some way in which you could possibly help us? Couldn't you please try to bring an industry into our area?

Our Government has helped many other countries of the world when they asked for it. Couldn't the Government now help us?

Many large families here, the wage earner having lost his job, don't even have enough to eat. The cost of living is very high.

We are a very independent and hard-working people here, but it's hard to be independent when you and your children are hungry.

If just one big industry could be sent to this valley—just one—our problem would be solved. Will you please work on this problem before it's too late?

I, and I'm sure the rest of our people, would be ever so grateful for anything you could possibly do for us.

Respectfully yours,

MARY JANE TREVENA.

NESQUEHONING, PA.,
March 30, 1960.

The Honorable JOSEPH S. CLARK,
U.S. Senate,
Washington, D.C.

DEAR SIR: I am a senior in the Nesquehoning High School, and a future worker of the United States of America. I will graduate in June, but the future in Panther Valley isn't very bright. Instead of industries coming into this valley, they are going out. Under this condition, our future after graduation doesn't look very good.

Getting a job here is very difficult; new industries are going up everywhere else except in our valley. The only decent job is found away from home; therefore the population of Panther Valley is decreasing. People who have lived here practically all their lives have to leave and get jobs away from their home town. Leaving means giving up and starting over at a place away from our valley which is very beautiful. This valley that was once a great coal region is now fading away to a region of loneliness. Our situation is really desperate. We have no one to turn to except our Government. Surely a Government that is so conscious of the needs of people abroad will not turn a deaf ear to the needs of some of its own citizens—citizens of a whole section.

Our homes are very nice; but even if we secure jobs at a distance, we can't sell our homes for their proper value. Who wants to buy a home in a ghost town?

We are not asking for charity—just a chance to become productive and independent citizens once more. Just one big industry would help us. As a result we would gain, and our country would also gain through additional tax money.

Please give this your serious consideration and do something constructive for us.

Respectfully yours,

MARGARET ANN HRINDA.

NESQUEHONING, PA.,
March 29, 1960.

The Honorable JOSEPH A. CLARK,
The U.S. Senate,
Washington, D.C.

SIR: I am a senior student at Nesquehoning High School. I will graduate in June. Most of the senior students will have to go somewhere else for a job, because there is no work around our town. The working conditions in our valley are not very good; in fact, most of our men are unemployed. About 3 years ago we had a mining company in our town; it employed over a thousand men from our valley, but now it is closed down and all the men are out of work. A great many of the men went away to work, and they had to leave their families here. They come home on weekends to see their families. All we need is one big industry in our town to keep it going. Couldn't you try to do something for our town?

Over the years the Government has helped many people in the world. So, Senator CLARK, couldn't you please try to use your influence to help a whole section in your own State of Pennsylvania?

The people of Nesquehoning would appreciate any help you could possibly give us.

Respectfully yours,

MARIANNE REHATCHEK.

NESQUEHONING, PA.,
March 29, 1960.

The Honorable JOSEPH S. CLARK,
The U.S. Senate,
Washington, D.C.

DEAR SIR: I am a senior in the Nesquehoning Junior-Senior High School. This coming June I will graduate and I'll have to look for a job; but the way conditions are in the Nesquehoning Valley, hardly anyone can get a job. There are a great many older people than I living in Nesquehoning who are unemployed, people whom I know very well. Some of them are my relatives; others, close friends. If these people cannot find employment, what is my future?

In the past 10 years many people have left Nesquehoning to seek employment elsewhere. Some of the men have to leave their families and go looking for jobs in distant towns. If Nesquehoning had some kind of industry all the people of our town could be together again.

The Nesquehoning Valley's location is wonderful for a new industry for several reasons. Some of these reasons are: railroads, water supply, electric power, and many ambitious people who are willing to do just about any kind of work. We also have the space for the purpose of setting up a new industry.

The people living in the Nesquehoning Valley are in great need of help; and if someone soon doesn't do something about this situation, Nesquehoning will be completely deserted in a few years.

We come to you, our representative in the Federal Government, for help. Just one really big industrial plant would solve not only our problem but the problem in our entire valley.

It seems so little to ask; yet it means so much to so many. Senator CLARK, will you work in our behalf?

Respectfully yours,

MARY ELLEN YANIGA.

NESQUEHONING, PA., *March 30, 1960.*

The Honorable JOSEPH S. CLARK,
The U.S. Senate,
Washington, D.C.

SIR: I am a senior in Nesquehoning High School and will graduate in June. As I think about our town, it seems as if it and our whole valley has been completely forgotten.

In this part of the country and in this valley in particular there are a number of once thriving little towns amid beautiful scenery. I know most people would like to stay here, but how can they when there is no employment? A town without any work or industries just doesn't keep its citizens for very long; and in the years I've lived and grown up here, I see our town fading away right under our eyes. There is no reason for this when something can be done. We've helped other countries when their need was far greater than ours. It's not as if we're asking to help fight a war, but we are asking to help fight destruction and the downfall of our whole valley.

I'm sure it wouldn't take much—just a few industries to bring back all the families that left here. Then maybe more people would start moving back and make Nesquehoning once more the thriving and prosperous community it once was.

It's as simple as this—immediate help or ghost towns. Please help us, or use your influence to see that we are helped.

Respectfully yours,

CAROLE KENNEDY.

NESQUEHONING, PA., *March 30, 1960.*

The Honorable JOSEPH S. CLARK,
The U.S. Senate,
Washington, D.C.

SIR: I am a senior in Nesquehoning Junior-Senior High School and will graduate in June. After graduation most of the seniors will have to leave home to get employment, because there aren't any jobs in our valley. Nobody wants to leave home, but there isn't anything else we can do.

Most of the men in our valley are without jobs, and those who have jobs have to go someplace else to work; they have to leave their families here and seek employment elsewhere.

My father had a job until the last mining breaker closed down; now he is one of many who are without work. Most of the women have to go to work to try to support the family. They have to work in factories and that's really hard work. Mothers should really be at home taking care of their homes and families, but someone has to make a little money to take care of at least part of the necessities of life.

When I graduate, I would like to get a job for the summer months to try and help out at home, but there isn't any employment here for me or any of the other seniors.

The reason for writing this letter is to let you know just how much the people of Nesquehoning really need help. If we soon don't get help, all the people in this valley will have to leave. We turn in desperation to our only hope—our Government. The American Government has helped so many needy countries abroad. Certainly it cannot turn its back on its own needy citizens.

Respectfully yours,

MARIANNE YORK.

GOOD RACE RELATIONS EXISTING IN GAFFNEY, S.C.

Mr. THURMOND. Mr. President, there appears in today's issue of the Wall Street Journal a very excellent article

by Mr. John F. Bridge entitled "The Quiet in the South: A Small Carolina Town Hews to Its Peaceful Ways Amid the Noise of Racial Conflict in Other Places." I call this article, which is written about the good relationship existing in Gaffney, S.C., between the members of the white and Negro races, to the attention of the Senate, because it ties in so well with a speech which I made on the floor of the Senate last Friday, April 1, pointing up the advantages of our system of segregation in the South over that of the harsh, hypocritical, and deceitful system of segregation which is found in the North. As this writer points out, Gaffney is an excellent example of the good relationship which can exist between the races in a segregated society without outside agitation. The writer also adds this important point: that there are more Gaffneys in the South than there are racial trouble spots which have been stirred up by the NAACP and other leftwing, radical groups who are merely serving the cause of the Communists by pitting race against race in some areas at a time when our people should be united as never before in the interest of our national security.

Mr. President, I ask unanimous consent to have this article printed in the body of the RECORD at this point in my remarks.

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

[From the Wall Street Journal, Apr. 8, 1960]

THE QUIET IN THE SOUTH—A SMALL CAROLINA TOWN HEWS TO ITS PEACEFUL WAYS AMID THE NOISE OF RACIAL CONFLICT IN OTHER PLACES

(By John F. Bridge)

GAFFNEY, S.C.—As the turboprop flies, it is only a few hours from New York City to this town of 9,000, tucked away in the hills of western South Carolina. But this is a world that New York and Chicago and San Francisco do not know. And the guesses they make about it are often wide of the mark.

The headline in New York was of civil disorder sweeping across the South, of Negroes battling police to be seated at lunch counters with whites; the newscasts told of crosses flaming in the hills. But whatever the situation in some larger places, in Gaffney there is no battling, there are no fiery crosses, there is no disorder. Life goes on much as it always has. Businessmen meet for Rotary, housewives gabble with their colored cooks, and high school kids assemble in their segregated schools (Negroes in the newer, more modern one). The stranger with the northern accent may be studied with mild curiosity and a touch of anxiety. But he is greeted with unfailing friendliness and by white and Negro alike.

True there is a certain tension in the air. But one feels it is imposed largely by the world outside and the memory of things past. At the Sports Central poolhall on North Limestone Street the young white men intently mind their own business. The Negroes loafing on the bench outside Glymph's Market a block back on Petty Street do the same. Segregation remains the rule, there is no drama of change. But there is, perhaps, a certain drama in the very fact that things do remain much the same. For there are more Gaffneys in the South than there are Greensboros or Birminghams.

At the Marby Cafe, businessman-engineer Jack Blanton, a Clemson graduate and for the 46 years of his life a resident of Gaffney, spoons 10 o'clock coffee and quietly notes: "We could have trouble, any place can have trouble in these times. But the chances are we won't. We have our problems, but we don't have many hotheads—either Negro or white."

The somewhat older manager of the Belk's department store here adds: "If there's trouble, it'll be imported from outside Gaffney. White and colored get on right well here."

THE TEDIOUS GULF

Talk to leaders of the colored community, which makes up one of every four residents of Gaffney, and very much the same impression emerges. Plainly they are not enthusiastic about the segregated life as an eternal state of affairs. But that is not the same thing as favoring violence, or even sharp and sudden breaks with custom and tradition. The upper crust of educated or commercially successful Negroes seem equally unimpressed by fiery crosses on the one hand and by promises of seven-league-strides to racial equality on the other.

Certainly they are well aware of the obvious; that the gulf in education and economic acumen between themselves and most of their fellow Negroes is greater than between themselves and middle class whites. Further, the visitor gets the definite impression that they find the job of uplifting the Negro a discouragingly tedious one. It adds up to a long, difficult job of education, economic improvement, further education, further improvement. All this before the gradual erosion of the social barriers that, in the phrase of one educated Negro, "would make integration meaningful." One feels these Negro leaders believe that in the present context of Negro educational levels here, this is a long way off.

But as for present relations between the races in Gaffney, in a time of widely publicized trouble, they are typically characterized as "relatively very excellent," generally quite good," and "very satisfactory." What are some of the reasons for this view of relative amity that are given by Negroes?

Drive out South Johnson Street and visit Rev. A. W. Goforth on a Gaffney afternoon. Next to his limestone Baptist Church is the neat white parsonage among the clergyman's early spring garden of crocuses and daffodils. His preschool son riddles the stranger with a popgun, and is riddled in reply, but all else is peaceful. The youthful Negro minister leaves off feeding the baby and ushers his visitor to a chair.

By the clergyman's account, it is the everyday little items, perhaps more than bigger, idealistic ones, that matter most to broad segments of the Negro population here. Recreational facilities are important; when a committee of Negro ministers sought sports equipment from town officials, they got it. There are two new municipal swimming pools, one Negro and one white, and the dimensions are identical. When the minister himself went to qualify to vote, "No one gave me any trouble; they gave me a piece of the Constitution to read and that was it."

Yet Reverend Goforth cannot be described as uninterested in desegregation; on the contrary. But one feels that daily events and pressures within his own congregation are closer to him, that whatever the drama elsewhere, his first interests are bound up with those things nearest to his own peaceable way of life.

Interestingly enough, among Negroes as well as most whites, there is agreement that "trouble," if it comes, likely would come from outside the town. "Gaffney isn't big enough for the NAACP to bother with," comments one Negro leader. Another notes that most of the "sit-in" disturbances have been in towns where there were Negro college students and Gaffney has no such school—though he inclines to shrug off the disturbances as versions of student faddism and prankishness, rather than as a seriously organized program. There is general agreement, too, among members of both races that there is no active membership in the town of the National Association for the Advancement of Colored People.

More extreme elements in the white population are usually identified hereabouts with the Ku Klux Klan. Cherokee County was a hotbed, by one oldtimer's account, for the original Reconstruction-era Klan, but the present version is generally considered to be disreputable and is therefore shunned by the responsible citizens who were its backbone in its earlier history. This is not to say the Klan does not exist—"a few crosses were burned several years ago" by the report of Editor S. C. Littlejohn of the Gaffney Ledger. But at least thus far, opinion of that unpleasant memory has kept Klansmen quiescent amid the difficulties elsewhere.

Don Hill, manager of the chamber of commerce, likes to believe that the town's growing industry, by making more jobs available in the textile, screen-wire weaving and other mills, has helped keep things on an even keel and the extremists quiet. A certain amount of competition for jobs between white and Negro is sometimes considered a cause of racial friction.

To be sure, the white-Negro job competition is limited; the mills here generally stand by their traditions of production and office jobs for whites, servicing and maintenance jobs for Negroes. When Negroes complain in Gaffney, it is most often, in the stranger's experience, about a certain economic ceiling faced by some who might be qualified for better jobs.

But this ceiling has been penetrated in some instances, with the assistance of the white employers here who are sometimes more concerned about the Negro's future than are many Negroes.

At the Childers' Sheet Metal Works, John O. Childers employs a Negro foreman over colored workers, and quite successfully. At the Modern Laundry, 60 years a town institution, the Morgan family has long employed Negro and white workers together, at comparable rates of pay.

For Negroes, such pay at the Modern ranks them well up in the colored economic scale. For example, Roy Ratchford, in his early thirties and the father of five, draws $45 a week as the drycleaner; his predecessor was white.

Partner-manager P. E. Morgan, Jr.'s approach to the half of his 40 workers who are colored is an interesting mixture of what might be called oldtime southern paternalism, on-the-job education for prudent living, and solid private enterprising. He and his family, southerners for many generations, feel, "we brought the Negroes here, it is up to us to fit them into their benefit." So he has adopted not only comparable pay, but paid hospitalization, a pension and sick leave system (frankly paternalistic), a small interest-free loan fund (to cut out the loan sharks) and a company-sponsored savings system (last year the 40 employees saved nearly $5,000).

SATISFACTION AND SUCCESS

Dry cleaner Ratchford, with the five children, saves $7 a week from his $45. One Negro woman employee of many years has thus sent several children through college. One husband and wife combination had saved $15,000 by the time they retired.

What do the Morgans—Mr. Morgan and his mother are the present partners—get from this? Of course, there is the inner satisfaction of fulfilling old family ideas of southern responsibility of whites to Negroes. This loyalty has been reciprocated in low absenteeism and a rate of turnover that is phenomenally low in a business noted in many places for an almost annual turnover.

The four colored women who press shirts have a total of 77 years on the job. One, Molly Shifty, about to retire at 65 on a voluntary system, has been on the job for 35 years. As a result of this skilled labor developed from unskilled ranks, Mr. Morgan turns out laundry for which he can charge 20 percent more than the competition. This of course, helps pay his higher wages to colored workers.

But the Morgan operation is an undoubted exception in the economic scheme of things. And if it perhaps contributes to peace in Gaffney, it can also be attacked as the paternalism that makes colored people "too satisfied."

The overwhelming impression is that Gaffney is at peace with itself because that is the way it wants to be. And if anyone is mad about anything, he is mad that the finger has again been pointed at the South by a North that has racial troubles of its own.

Meanwhile life goes on in the quiet, unhurried way that typifies small towns in the United States from Massachusetts to Texas to Nebraska to Oregon. If the accents are different, the people are the same.

The matrons meeting in the women's store exchange the effusive cries and compliments that mean they haven't met since day before yesterday. The watchmaker labors for 30 minutes on the stranger's watch but won't accept payment because he "can't guarantee it"—and even when he knows he will never see the stranger again. Folks fuss at parking meters and gripe mildly because the Southern Railway tracks, when they came through before the Civil War, "bolixed" up Founder Michael Gaffney's layout of the town and created a traffic problem for time immemorial.

The Shakespearean troupe comes to 115-year-old Limestone College for women and the music festival is not far away. The annual wives' night at the Rotary Club convenes, the speaker strings together 40 minutes of lively jokes (sample: Why keep up with the Joneses, they'll only refinance and move on out ahead again) and the dentist's wife tells the doctor's wife the precise information the stranger has overheard in New Jersey, Ohio and California: "The kids can't keep up, and neither can I—Scouts on Monday, choir on Tuesday, dancing lesson on Wednesday, piano on Thursday." No one mentions any crises of race or school integration and life goes on.

And, at least by casual observation, it goes on also in the various colored sections of town. Gaffney, like many southern towns and unlike most in the North, has no stringent residential segregation. Around the original cluster of homes, there was an outer circle of homes of Negro domestics and their families. But as the town grew, white homes infiltrated the Negro sections and also leap-frogged across them into new, predominantly white areas. Thus the middle class Negro homes in the block with Reverend Goforth's Baptist Church adjoin one of Gaffney's better white neighborhoods.

AT GRANARD HIGH

This is one factor that has compounded the school difficulties. In part the Negro interest in integrated schools is a desire to use the nearest school; in part the white interest in segregated schools is to keep both home and school contacts of their children from becoming wholly the same.

In South Carolina segregation remains the State law and there have been no moves here, in or out of the courts, toward any degree of integration. But in the past few years there has been a heavy State school building program and among those that have been built is the new Granard High School in Gaffney, a colored high school which in appearance and curriculum is not at all unusual in the State.

What is it like? Named for town-founder Gaffney's own home town in Ireland, it has 784 students from all over Cherokee County, transported to the school by school buses. It is a long, low, red brick-faced concrete block structure, rising to two stories in the center. In total appearance it is indistinguishable from modern schools in many northern cities, including those in some wealthier suburbs of big metropolises.

Step into the office of Principal H. G. Simpson. There is a short wait while the principal administers some sharply worded advice to an erring youngster somewhere down the hall, and the neatly dressed and well-spoken young colored secretary advises the stranger he is welcome to smoke. But otherwise the stranger could well be paying a visit to the principal of the northern white school his own children attend.

A loudspeaker on the pale-green-painted wall starts paging "all members of the Library Club" to report for a meeting. On the wall behind Mr. Simpson's desk hangs a certificate of merit from the National Education Association (it meant that 100 percent of the teachers are members) and a charter from the National Honor Society for the Ralph Bunche Chapter of Granard High.

Professor Simpson, as he is sometimes called, proves to be a native of South Carolina in his forties, who holds a master's degree from New York University, and who is a born and obviously dedicated teacher. Some 25 percent of his graduates go on to college, he reports. His curriculum is comparable to most traditional high schools—commercial subjects and industrial arts are offered but the main course is academic: Chemistry, biology, physics, mathematics in the sciences; ancient and U.S. history; English; and so on.

Lunch hour is underway outside. The students stroll about quietly, their dress economical but neat. As the stranger departs he notes posters announcing the candyland ball for the pupils and the annual talent contest of the parent-teachers' association.

Out on Rutledge Street a few dogs patiently await their masters, the hot Carolina sun beats down on the teachers' well-cared for Chevrolets, Fords, and Oldsmobiles, and somewhere nearby some family's backyard cow begins to moo contentedly. The stranger cannot help but reflect that the students he has just seen, in their State-built segregated school, are a far cry intellectually from many of their uneducated parents. When they are heard from at some distant date, the story may be different. But for now, whatever the rest of the world thinks, this one small piece of the smalltown South couldn't be quieter.

ADDRESS BY FOREIGN MINISTER OF FEDERAL REPUBLIC OF GERMANY

Mr. SCOTT. Mr. President, it was my pleasure to be invited on March 18, 1960, by my colleagues, the Senator from New Hampshire [Mr. BRIDGES] and the Senator from New York [Mr. JAVITS], to a luncheon in the U.S. Senate Chambers in honor of Germany's distinguished Foreign Minister, Dr. von Brentano. In spite of the fact that this was one of the busiest days in Washington, with the civil rights legislation before the Senate and Congress, many of our colleagues attended. I want to compliment my colleagues for arranging this luncheon and having this distinguished guest present. It has enabled us all to get these important facts firsthand in regard to the forthcoming summit conference, where the fate of the free world may be decided.

It helped me, and I am sure my colleagues feel likewise, to listen to the senior Senator from New Hampshire and the senior Senator from New York and to our able Under Secretary of State, Mr. Dillon, and to the most penetrating and precise address of Germany's great statesman, Dr. von Brentano, who shares with the great Chancellor of Germany, Dr. Adenauer, who was our Nation's guest recently, the grave responsibility of not only handling the foreign affairs of Germany, but of working hand in hand with us to stop this cold war and Soviet imperialism.

Mr. President, I ask that the transcript and the commentary and the address of this historical luncheon be printed in the RECORD so that all our colleagues and friends who could not be present can share with us this experience and knowledge.

Only a few days ago in Chicago, on April 4, 1960, our distinguished great Secretary of State, Christian Herter, a worthy successor to the late John Foster Dulles, most eloquently gave the U.S. position in regard to Soviet imperialism. Let me cite here only the comment by the Chicago Daily News on Mr. Herter's eloquent speech, which will be found in other pages of the CONGRESSIONAL RECORD.

Chicago Daily News, April 5, 1960:

RUSS TRYING TO SPLIT OUR SIDE AGAIN: HERTER—NIK SOWS SEEDS OF DISUNITY—ALLIES WON'T RETREAT ON BERLIN

Secretary of State Herter Monday accused Soviet Premier Khrushchev of trying to "sow the seeds of suspicion and disunity" among the free world allies by a series of threatening speeches on West Germany.

Herter again declared the determination of the West "to protect the freedom and security of the people of West Berlin" at the forthcoming summit meeting.

"In thus making sure that the Soviet leaders do not misjudge our firmness, we reduce the chances of rash action which would greatly increase tensions," Herter said in a speech before the National Association of Broadcasters convention in the Conrad Hilton Hotel here.

This answers clearly the words of Minister von Brentano in his address, and I am quoting these two paragraphs here again to be sure that Chancellor Adenauer, Minister von Brentano, and the entire people of Germany know that all of us here in the U.S. Congress back the position of the President and Secretary Herter:

Whenever I came here or come here for an exchange of views, and in order to express what worries us, what concerns us, please do not think and do not interpret that as meaning that we had any doubts of the policy or the political attitude of the United States of America. I think the past has clearly shown that such doubts would not be justified, but if we speak about that, it is because we think it's necessary to maintain this unflinching solidarity among the nations of the free world. We do not mean to express any doubts in the American position, but we want to warn of certain possibilities which may perhaps arise; we want to point out the consequences that may occur, that may crop up for the whole free world if this solidarity were to be shaken. And this feeling was expressed and could be felt in all the talks I've had. I remember yesterday our meeting with the Foreign Affairs Committee and Senator FULBRIGHT. I notice this feeling here to-

day and I think wherever I've been I've had this firm conviction that there is trust and confidence between our two Governments, between our two Nations, and I think it is a confidence and a trust which is genuine and will be lasting.

Your presence here today and the invitation you extended to me was highly satisfactory and was a great honor and distinction. Noting how great the understanding for the German situation is, was a few days ago also made very clear by the speech delivered by Senator DODD. It's an excellent speech. I read it with the greatest interest, when he commented on what is worrying us in Germany today, and I particularly am pleased and grateful that he, who has seen the liquidation of that rather fatefully unhappy period in Nuremberg, is now one of those who pleads for trust and confidence in this new Germany; and I am sure, Mr. Chairman, that my visit has also helped to strengthen this and to deepen this feeling of friendship, of confidence, of cooperation. I am sure that our cooperation will become even deeper, and even closer, and there must be no doubt in our common task, in our solidarity. This common solidarity of the free world must not be shaken, and the Federal Government and the Federal Republic of Germany will daily make new efforts in order to convince their newly gained friends that you can rely on this new Germany.

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

SPEECH OF HIS EXCELLENCY, DR. HEINRICH VON BRENTANO, FOREIGN MINISTER OF THE FEDERAL REPUBLIC OF GERMANY

Mr. Chairman, gentlemen, first of all, I would like to take this opportunity to thank my hosts today, Senator JAVITS and Senator BRIDGES, for this opportunity they have given me to speak before this very distinguished group today, and in conveying my thanks to these two Senators, I, of course, would also like to thank you for having come here in spite of your busy schedules on the floor of the Parliament in order to listen to what I have to say. You Senators are most gracious and kind to recall also my American relatives in your introductions.

I remember Theodore Brentano came to the house of my parents in Germany. At that time he was no longer chief justice in Chicago but was the first American Ambassador in Budapest. The German Brentanos were of course very proud of this great American uncle. And now Senators, Congressmen, distinguished Cabinet officers and our good friend Secretary Dillon—I would not like to speak about what has very often been said in the last few days. But I should like, gentlemen, to say a few words about the general views of the Federal Government of Germany on those political questions which have been with us yesterday, which are with us today, and which will be with us tomorrow. First of all, gentlemen, I ask you to be convinced that the German people of today unequivocally adhere to the idea of the free and democratic order. I admit that the last few months some incidents have occurred that greatly worried us. But if I say that these incidents were not of that significance which were attributed to them in some papers I do not mean to minimize the seriousness of these effects, but I assure you that we are extremely vigilant in the Federal Republic of Germany, and that we will be in a position, in a people of 52 million inhabitants, to deal with some few fools or criminals.

I think that the personality of the Federal Chancellor, Dr. Adenauer, the personalities of all those who work with him, the general attitude of the German Parliament, the general attitude of the German public opinion will give you this guarantee. I said before that Germany of today adheres to an order of freedom and democracy. And we are not prepared to make any compromise on that issue of freedom, liberty, and democracy for all, under any heavy pressure or pretext, as far as Germany is concerned.

It is only the Federal Republic of Germany, their 52 million people, who are lucky to live under a system of liberty and freedom. But that does not mean that we will ever let up in our efforts and endeavors to see to it that the 17 million Germans who are living in the Soviet-occupied zone of Germany will also one day be able to live again under a system and order of freedom.

I hope—I am sure—that when this day will come, and come it must and come it will, these 17 million Germans will make a decision, will cast a vote, which will be regarded as one of the most impressive manifestations of the will of part of a people, and they will show to the whole world that these 17 million Germans, though they have been subjected to unparalleled pressure, have not become soft, but that the majority of them sticks to the principles which are applying in your country here, which are applying to my country, and which we sincerely hope that they will also again in those parts of the world where they are not applying today. [Applause.]

If this was the first guiding principle of German policy, I should now like to say a few words about the second guiding principle of German policy that Mr. Dillon had referred to earlier. We are conscious of our obligations in Europe. The world today is a different world. This world in which we are living today is no longer the world of the 19th century. And Europe has become too small, for these individual countries have become too small. They no longer are an economic area sufficient in themselves. There are only qualitative differences between Germany, between France, between the Benelux countries, and therefore, because we are aware of this situation, because we are aware of these changes, we are prepared to go on, on the way which we have gone so far which led from the establishment of the Coal and Steel Community to the establishment of the European Economic Community and of Euratom.

And I should like to make a very strong point by saying we have not only in mind by taking this course an economic aim, but we also thing of a great political aim. And we are also appreciative for the understanding which we receive in this country for this particular point. True enough, it is a great economic adventure, because we are going to build one single economic area comprising 160 million people with an enormous huge economic potential. But what is the political task? The political task is European integration, and this means we will in this way eliminate a very fateful past—we will remove and root out all these things that led in the past to tensions or arising out of feelings of strong nationalism in the 19th century. We will make it impossible that these conflicts between Germany and France which have led to so many wars, which finally involved the whole world, will not recur. We will put an end to this development and, therefore, we are determined to go on, on this road and to create European unity.

I am particularly happy to state here that our French neighbors think exactly along the same lines. I think never in history has there been an epoch where Franco-German relationships were so close and were so frank that there has never been a friendship like this existing between the two countries, and there is the same understanding of our joint common task in France as it is in Germany.

But let me make another point. This policy, aiming at European integration, is not directed against anyone. I am sorry that there should have been some misunderstandings. We are not going, it is not our intention to establish, to found here a bloc, an economic or a potential bloc from which others are excluded. This is not our intention. But we cannot pursue our policy of European integration if we have to wait for those who are not ready yet to join. Therefore, we must make a start with those who are ready to do that. I am sure that the political and also economic difficulties which have cropped up since the establishment of the European Economic Community and the establishment of the Efta can be solved, and I am grateful to the American contribution that was made at the Western summit conference last December. The contribution that was made by the American Government, in particular by Under Secretary Dillon, and I have not the slightest doubt that this is an imminent contribution, to bring about final success of all our endeavors. [Applause.]

Now let me mention a third guiding principle. The German people of today who live in the Federal Republic of Germany, the German people of tomorrow who live in a reunited Germany, are an integral part of the free world, and I may assure you that any attempt to break Germany out of this community of the free world will meet with a resolute resistance of the German people. This is not an expression of intransigence, it is not an expression of cold war mindedness, but we are convinced that there is no compromise, no compromise is possible between slavery and freedom, between justice and injustice. Nor is it possible to dodge the decision by trying to evade the issue and fling into neutrality. I think the expression of this determination of the German people is visible in German membership in the Atlantic community.

We will not give up our membership in this Atlantic community even if the most enticing offers will be made to us. We are ready to join in what will be genuine and real coexistence, in general and real living side by side with other nations, but the Moscow interpretation of coexistence is unacceptable for us because it is necessary that he who speaks of coexistence recognizes first the right of his neighbor of the other country to his own existence, and this has so far not been the case.

Because the German people, most German people, and in particular the 17 million Germans in the Soviet-occupied zone have, so far, not been entitled freely to decide their own fate, and freely to decide their own order under which they want to live. Each country is convinced of the right of self-determination, but the Russians and Soviets contest this right as regards Germany, and only Germany. Nobody has a right to stipulate under which internal social or economic border the people want to live but the people concerned itself. Nobody has a right to fix for another people its position and attitude as regards foreign policy but the people, and the people alone. And we are ready to join and to cooperate in any security system if under this security system everybody has the same rights and has the same obligation. But let me repeat that again, with all emphasis, that there can be no compromise whatsoever as regards the general political situation and the position and attitude of the German people. The German people are part of the free world and they will remain part of the free world as long as they are in a position to defend themselves against intervention from outside and as long as they will enjoy the support of the countries of the free world. [Applause.]

Fifty-two million Germans are living in freedom. Seventeen million Germans are living in the Soviet-occupied zone and what is happening there in the Soviet-occupied zone is nothing but a new manifestation of wanton and reckless imperialism. There

are 2½ million people living in the free part of Berlin and their freedom depends on whether the free world will be ready to resist and oppose the threat that was expressed in this Russian note of November 1958. I do not think it necessary to make this point here because I know what your position is; I know where you stand. I think that the proposal that was made by the federal chancellor 2 days ago to have a plebiscite in Berlin is a good proposal, and it seems to me necessary to study this suggestion.

We know that sometimes Soviet eastern propaganda is not without effect, but I may tell you that about a year ago I had a visit from a gentleman, an eminent politician from one of the so-called noncommitted countries. And he spoke to me about this Soviet note of November 1958, and he asked me: "Isn't that a good proposal? Do you not want to set an end to the occupation regime? That is what they suggest in this note? Do you not want to have a free Berlin? May I suggest then that you establish a free city?"

It was not a lack of good will on the part of that gentleman, but it was just a lack of understanding of the realities of the situation. Therefore, I think it would be a good thing if these 2½ million Berliners would have the opportunity as in December 1958, to express, to manifest their will. At that time 96 percent of the population participated in the elections and cast their votes in favor of the two great democratic parties. Then it would be easier to discuss this problem, then we know what their will, what their desires are because we do not want and we shouldn't leave them out of account, and I must also say that I was particularly grateful and appreciative when 3 days ago after the talks with the President, between the President and the Chancellor, this idea was also supported, strongly supported by the President and also expressed in the communique. [Applause.]

Now, in conclusion, let me say a few words about a more personal character. I remember the day when the first American forces entered the town in which I happened to live at the end of the war, and it was only a few days later that I had my first talks with American authorities. That was in the State of Hesse, and when this State of Hesse was founded and when we had our first elections after the war, when the State Parliament and the State Legislature were elected, and when we worked out a constitution for the State of Hesse, then I remembered when the three Western occupation zones were united and combined and I remember our work in the parliamentary council which was instituted and established to prepare a constitution for the Fifth Republic of Germany. And then for 10 years I have been a member of the German Federal Parliament, of the Bundestag, and I have succeeded the Chancellor as the head of the greatest parliamentary government party and also as Foreign Secretary, and in all these years I had the closest cooperation with the United States of America and their representatives.

I remember my cooperation with General Clay. I was pleased to see him again the other day. We developed a sincere friendship, and then I remember Mr. John McCloy, Dr. Conant, Ambassador Bruce, and your present Ambassador in Bonn, Mr. Dowling. I also remember my talks in 1950, my first talk with Dean Acheson, whom I met in the residence of your then High Commissioner, Mr. John J. McCloy, when we discussed the German treaty. And in particular, I remember the late John Foster Dulles. He was a warm and sincere, honest friend of ours, and our memories of him will never die.

I am also particularly grateful for the support and friendly cooperation I am meeting with here, with the present Secretary of State, Mr. Herter, and I think these friendly relations could be established on your side because there was understanding and appreciation of the difficulties and of the problems we in Germany had to face. And the Chancellor said, yesterday I think it was, that he was deeply moved and touched when, the other day, he left the President's office, he met in one of the rooms in the White House the widow of General Marshall. We know how much we are indebted to him. And my talks this time with the President and the Vice President had shown—had given evidence that this sincere and close cooperation is going to continue. Whenever I came here, or come here for an exchange of views, and in order to express what worries us, what concerns us, please do not think and do not interpret that as meaning that we had any doubts in the policy or the political attitude of the United States of America. I think the past has clearly shown that such doubts would not be justified, but if we speak about that, it is because we think it's necessary to maintain this unflinching solidarity among the nations of the free world. We do not mean to express any doubts in the American position, but we want to warn of certain possibilities which may perhaps arise, we want to point out the consequences that may occur, that may crop up for the whole free world if this solidarity were to be shaken. And this feeling was expressed and could be felt in all the talks I've had.

I remember yesterday our meeting with the Foreign Affairs Committee and Senator FULBRIGHT. I notice this feeling here today, and I think wherever I've been I have had this firm conviction that there is trust and confidence between our two Governments, between our two nations, and I think it is a confidence and a trust which is genuine and will be lasting. Your presence here today and the invitation you extended to me was highly satisfactory and was a great honor and distinction. Noting how great the understanding for the German situation is, was made very clear a few days ago by the speech delivered by Senator DODD. It's an excellent speech. I read it with the greatest interest, when he commented on what is worrying us in Germany today, and I am particularly pleased and grateful that he who has seen the liquidation of that rather fatefully unhappy period in Nuremberg is now one of those who pleads for trust and confidence in this new Germany. And I am sure, Mr. Chairman, that my visit has also helped to strengthen this and to deepen this feeling of friendship, of confidence, of cooperation.

I am sure that our cooperation will become even deeper, and even closer and there must be no doubt in our common task, in our solidarity. This common solidarity of the free world must not be shaken, and the Federal Government and the Federal Republic of Germany will daily make new efforts in order to convince their newly gained friends that you can rely on this new Germany.

And now, distinguished gentlemen, thank you again from the bottom of my heart. [Applause.]

PROPOSED SAWTOOTH NATIONAL PARK

Mr. CHURCH. Mr. President, yesterday I introduced Senate bill 3353, which calls for a feasibility study of a Sawtooth National Park, in central Idaho. At that time, I included in the RECORD extracts from a number of favorable editorials which had appeared in Idaho newspapers.

I ask unanimous consent to include at this point in the RECORD excerpts from an editorial published in still another Idaho newspaper. The editorial deals favorably with this park study proposal.

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

[From the Mountain Home (Idaho) News]

THE MAJORITY SAYS, "GO AHEAD SENATOR CHURCH"

After reading editorials in several Magic Valley newspapers we got the idea that Senator FRANK CHURCH might have bitten off more than he could chew when he announced his intention of trying to create a national park in the Sawtooth Mountains. This week it looks like the bite he took might turn into a pretty nice feast for the junior Senator from Idaho.

In a public opinion poll CHURCH found out that four out of every five people wanted to see a feasibility study made on the park idea. The people from Elmore County who answered his postcard poll tabbed an even higher "yes" vote—91 yes and only 12 no.

As in the case on many big issues a lot of the firsthand uproar was caused by a lack of complete understanding. Stockmen and ranchers, as well as organizations composed of each, started yelling at the top of their voices because they didn't want their range and meadow land in the Stanley Basin taken away from them. Unless our latest information is incorrect, their yells weren't justified since those grounds were never included.

MILAN TRADE FAIR—A BUSINESSMAN'S SUMMIT

Mr. WILEY. Mr. President, during the past year, we have witnessed an unprecedented "have message, will travel" type of diplomacy in world affairs.

The leader and high-ranking representation of the free and Communist blocs have traveled to friendly uncommitted, and ideologically opposed, countries for a wide variety of purposes, including discussing issues, selling their way of life, resolving differences, promoting better understanding and other reasons.

They have tried to explain their nations and their chosen systems of government to the host nations. Many of these visits have been natural manifestations of friendship between nations sharing similar objectives and desires for their peoples. Others have been part of an attempt to win allies in the competition that exists between those nations whose peoples have chosen freedom and others governed by the Communist system.

This struggle is not, however, confined to the diplomatic, military, or propaganda battle lines.

In addition, the economic challenge is playing an increasingly significant role. In fact, it is in the realm of the economic that this competition between opposing systems may finally be won. As a frontline, the American businessman may well prove to be a most effective ambassador.

Toward this end, the U.S. Government is sponsoring, and the American businessman is participating in, international trade fairs throughout the world—not only to present our country in a proper light in the war of ideas, but also to help U.S. business expand its markets and thereby enhance both domestic and international prosperity.

I would, therefore, like to call the attention of my colleagues to what might be called the "businessman's summit"—the Milan Trade Fair, largest of its kind in the world. The fair opens next week.

At this fair there will be nearly 13,500 exhibitors from more than 120 countries showing over 1 million industrial, commercial and agricultural products in the 4½ million square feet of display space with 47 miles of display front. There will be national pavilions of 33 governments, including those of the United States and the Soviet Union, plus scores of independent exhibiting companies from every continent. This year 550 American firms will be represented—a new record. In fact, there is a reported difficulty in obtaining adequate space for the numerous U.S. exhibits.

However, it is most encouraging to find that more and more of our businessmen are becoming aware of the values of, and are participating in, trade fairs. They are to be commended for their effort to increase trade abroad and, in this way, to help rectify our current trade imbalance. The Milan Trade Fair, one of the world's largest, is illustrative of the kind of oversea marketplaces that are open to those of our businessmen who are in a position to take advantage of them.

At the fair the potential buyer can expect to find everything from safety pins for the baby to the largest mechanical and manufacturing equipment. This year five new international expositions have been added to this colossus, enlarging the fair by 250,000 square feet—more than the total size of many trade fairs elsewhere in the world, but only a small fraction of the permanent Milan Fair grounds. These new expositions will be devoted to chemical engineering, aeronautics, synthetic fibers, freight containers and motion pictures.

For example, the new international film fair will encompass exhibits and demonstrations of the creative, technical, and commercial resources of the world's motion picture industries for the first time. A special exposition will be devoted to vertical flight; and a specialized exposition of high vacuum applications have grown from what was formerly a part of the chemical engineering show.

Freight containers used as road-rail and rail-ship transport links will have their own separate exposition and the Bureau International des Containers will sponsor a special outdoor exhibition of developments of these freight carrying units. The BIC will hold its annual assembly and meeting at the fair and there will be a convention of the International Federation of Associations of Transport and Associated Enterprises at which Government and private railway officials from many countries will participate.

Among other important technical conferences to be held during the fair are a series of meetings on new chemical technologies and the regular meetings of dozens of international trade, industrial, and agricultural associations and professional groups.

In addition, representatives of NATO, the European Common Market, the CEPES and other European bodies and representatives of African nations are scheduled to meet to discuss ways by which Government and private industry can collaborate in the development of the newly emerging African nations.

Participation in fairs such as the Milan Trade Fair has proved gratifying not only from the standpoint of increased commercial activity for the businessman but, as the Director of the U.S. Commerce Department's Office of International Trade Fairs has said, as "a real contribution to world peace."

THE DRUG INDUSTRY'S TRIAL BY PUBLICITY

Mr. MARTIN. Mr. President, I ask unanimous consent to have printed in the RECORD a speech prepared by our distinguished colleague, Senator ALEXANDER WILEY, for delivery at the Iowa Pharmaceutical Association Convention, Cedar Rapids, Iowa, March 8, 1960. The speech is wonderfully informative and will be of great interest to all Members of Congress. It was reprinted in the April 4, 1960, issue of the Journal of the American Pharmaceutical Association, where it appears at pages 212 to 214.

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

THE DRUG INDUSTRY'S TRIAL BY PUBLICITY

(By Senator ALEXANDER WILEY)

Congressional investigations may have seemed somewhat remote and abstract to you a few months ago. Yet now that the Senate drug investigation has made national headlines, you are in the middle of the puddle, too, so to speak.

It is true that these hearings are directed to the drug manufacturers—not the retail pharmacists. Indeed, we all know that you—with your long hours and large and expensive inventories—are far from being fortune makers. Yet, in the minds of some, your fortunes are somehow linked with those of the drug manufacturers. Consequently, you—who come in direct contact with the ailing and unhappy buyer—may be unjustly blamed for drug prices over which you have no control.

But congressional investigations should be of concern to you not merely because you yourselves are interested parties. The conduct of congressional business, like the conduct of our courts of justice, is a subject of direct interest to all citizens—for it is our basic liberties that are at stake. Every case in which justice is miscarried, every investigation in which the investigators are carried away opens the door for the abuse of your rights and mine.

WHAT IS A CONGRESSIONAL INVESTIGATION?

History has shown us that the best law is based upon the most widespread human knowledge and proper ascertainment of the facts. A rule made by one man is not nearly as good as the rule a man would make after consulting those intimately acquainted with the situation.

The making of laws—which is the business of Congress—is not an easy undertaking. Much raw material, a great deal of work, sweat, and care are necessary to produce what may appear, to the casual observer, a small quantity of annual legislation.

During the first session of the 86th Congress, a total of 13,837 bills and resolutions were introduced in the House and the Senate. Of these, only 619 were enacted in that session. Usually only 5 to 10 percent of the bills introduced eventually become law.

The major job of screening legislation belongs to the committees and subcommittees of Congress. Early in the history of Congress, a special ad hoc committee was set up to dispose of each bill introduced into the National Legislature. In the Third Congress, there were thus 350 select committees. Now Congress operates through standing committees which have specific subject matter jurisdiction. The so-called Kefauver Committee conducting the drug investigation is in fact the Antitrust and Monopoly Subcommittee of the Senate Judiciary Committee.

It has been said rightly that ours is a "government by committees." Probably better than 90 percent of the legislative groundwork—the research, the testimony on bills, the personal interviews, the special investigations, the debating, the weighing of factors, the compromising and redrafting—takes place not in the Senate or House of Representatives Chambers but in their workshops—the standing and special committees.

In carrying out legislative functions, the investigatory power is a major tool. It provides the legislature with eyes, with ears, and with a thinking mechanism. The investigations provide Congress with an orderly means for absorbing the knowledge, experience, and statistical data necessary for legislation in a complex democratic society.

Nowhere in the Constitution did the Founding Fathers expressly provide for investigations by congressional committees. Like Topsy, the institutions of congressional investigations "just growed." As early as 1792, the House of Representatives called for the first known investigation—an inquiry into the failure of a military expedition under Major General St. Clair against marauding Indians in Ohio and Indiana. Ever since, the power of investigation has been considered a necessary adjunct of legislation.

Of all Congresses, the 82d one earned for itself the title of "The Investigatingest Congress." Alone it conducted 236 investigations in 2 years and spent about $4 million on them.

But the present Congress need concede nothing to the 82d Congress when it comes to investigating. During the first session, committees were authorized to spend almost $9 million for investigations. This year the Subcommittee on Antitrust and Monopoly alone will receive $425,000 for investigations—the largest single appropriation for a probe in Congress.

What has the Antitrust and Monopoly Subcommittee done with this appropriation? It has been investigating the insurance business, steel prices, professional sports, the price of bread and—what you are most familiar with—the drug industry.

THE DRUG PROBE

Concluding his testimony before a recent hearing the Antitrust Subcommittee, one of the drug company executives thanked the chairman for the opportunity to present his testimony "at this trial." The chairman corrected the witness—this was a hearing not a trial; to which the latter responded: "I would have had a much easier time before a judge."

In this exchange lies the essence of my concern for the conduct of these hearings. What is the purpose of these hearings? How far can the subcommittee go? How can we assure American citizens and American business their legitimate interests and legal rights will not be abused?

The drug hearings were launched after 2 years of preparation. Ostensibly they are directed to determine whether monopolistic practices exist in the drug industry and whether new legislation is necessary to protect the interest of free enterprise. Begun on December 7, 1959, the investigation has thus far dealt with steroid hormones and

with tranquilizers. Antibiotics and vitamins are two of the pharmaceutical products next on the list.

If the purpose of these hearings is to uncover monopolistic practices, the record certainly gives little indication of success. I sat through many of the hearings myself and I obtained quite an education. Some of the Senators present said they felt they would be entitled to a medical degree after completing the course.

We found out all about detail men, patents, medical history, and prehistory, quacks, executive salaries, stock appreciation, quality controls, new drug applications, Government bids, foreign sales, advertising, merchandising, and retailing. By the time the hearing was over—we had covered the whole 40-acre lot. What we heard touched little on monopoly. It sounded more like a hearing designed to set up price controls.

What we heard, however, made big, damning headlines the country over. The headlines did not reflect the facts—they were produced by one-sided statistical and accounting manipulations. They announced to the unsuspecting reader the evil doings of the drugmakers, who supposedly collected profits of 1,000, 2,000 and up to 10,000 percent.

This type of manipulated factfinding went on for three sessions. Only at the fourth session, under my insistent cross-examination, was the bluff called. There were no 1,000 or 2,000 percent profits in the industry—there were, instead, profits averaging 13 percent of sales and dividends to stockholders amounting to 5 or 6 percent.

Figures of tremendous profits are easy to manufacture—all you have to do is select a few isolated examples and present them as proof of the total truth. Yet, to judge a total drug operation by profits from 1 successful product out of 500 is misleading. And to say that a manufacturer makes an unconscionable profit of several hundred percent—because there is a big markup between the cost of the raw material and the final cost of the product to the consumer—is not overly accurate.

I can assure you that accuracy and truthfulness are not easy to come by—especially when the whole battery of subcommittee attorneys, economists and investigators are on the other side. I felt it my duty to insist on facts but my campaign to bring out the facts was not welcome everywhere. One of the biggest newspapers in my own State of Wisconsin was so incensed it devoted an editorial to me. "Senator WILEY," it said, "should represent more the interests of the people," and again, "Senator WILEY sounds like the spokesman of the drug industry."

I do not consider myself a special advocate for the drug industry or any other special interest. What I have done I shall do in any case where the rights of the American people—their life, liberty, and property—are unjustly and improperly interfered with.

USES AND ABUSES OF INVESTIGATIONS

Ex-President Truman said, "the days are gone forever when Webster, Clay, and Calhoun personally could familiarize themselves with all major matters with respect to which they were called upon to legislate." American society and Government have become so complex that Congress can perform its function only by resorting to the investigatory process.

Still, the phenomenal growth in the use of the investigating committees cannot be ascribed alone to this greater complexity. By carefully examining the records of many recent congressional hearings, one will discover that investigations have not been used merely to secure information for legislative purposes. They have at times been improperly employed to punish individuals without a judicial trial or to perform in an extra legal way that Congress cannot do legally.

Some investigations plainly have had the purpose of exposing and punishing individuals by public ridicule and embarrassment. And this abuse of the investigatory process has not been a monopoly of conservative or reactionary witch hunters. In fact, one of my colleagues on the drug investigation reported a few years back that during one of his hearings, "the witness under the relentless questioning of the committee's chief counsel * * * broke down and became an old, beaten man. He grimaced, scowled, showed his teeth, mocked his face and stared at the ceiling in anguish. His grammar failed him and he garbled his words." Is this factfinding or is this meting out punishment?

That Congress can act as a super grand inquisition—in the infamous Spanish tradition—has been demonstrated on several occasions. In 1936 the House of Representatives decided to combat the growing power and influence of the Townsend movement. Yet, it was not within congressional power to outlaw the movement. Instead, Congress investigated it and probably dealt the cause a severe blow in the ensuing investigation.

Against such investigatory excesses we must constantly keep vigil. But we must remember, also, that the proposition that politicians are too inclined to use investigations for personal political gain has a corollary—you as a people have been too willing to let them do so.

Although congressional investigations have been under vigorous attacks for at least 25 years, the public has generally approved the investigations while they were in progress. They give the public, unfortunately, the too-easy escape of putting the blame for all public and private difficulties and unhappiness on a few selected scapegoats—whether guilty or not.

Much too often, both the public and its politicians have been willing—in their heat of reforming passion—to sacrifice the principles of government by law for the attainment of desired immediate results. Unwittingly we subscribe to the Machiavellian theory that "the end justifies the means." The prices of drugs are too high, some feel, so if the drug industry is harassed some good may come. We become so concerned and emotionally upset over the nefarious activities of Communists, munitions makers, racketeers or whomever, that it seems much more important to us to meet present evils than to stoutly defend our liberties.

CALL FOR LEGISLATIVE DUE PROCESS

Screaming headlines telling of 10,000 percent profits in the drug industry created the impression—whether intentionally or not—of an industry run by unconscientious profiteers to whom individual suffering is of no concern. Oftentimes, these hearings constituted, in fact, a public trial of the industry—a trial, conducted not in the established traditions of due process but a trial by publicity where propaganda counts more than facts.

In undertaking such trials the subcommittee has been doing exactly what the Founding Fathers sought to prevent by setting forth in the Constitution the specific prohibition against bills of attainder. The Supreme Court said:

"A bill of attainder is a legislative act, which inflicts punishment without a judicial trial. * * * In these cases the legislative body, in addition to its legitimate functions, exercises the powers and office of a judge; it assumes, in the language of the textbook, judicial magistracy, it pronounces the guilt of the party, without any of the forms and safeguards of trial; it determines the sufficiency of the proofs produced whether conformable to the rules of evidence or otherwise."

In this trial by investigation of the drug industry, little attention was paid to the balancing arguments of the defense.

The public attention was constantly directed to profits on a single product of a single company without relating these to the many thousands of products produced by the entire industry, or the overall costs of doing business.

Hardly any reference was made to the high risks of this industry, which in 1958 had to test 114,600 substances before it could produce 40 marketable drugs.

Little reference was made to the high degree of obsolescence in the drug industry where one product can have 99 percent of the market 1 year and 3 percent 2 years later.

No mention was made of the fact that while wages increased 70 percent between 1948 and 1958 and construction costs 64 percent, the increase in the wholesale drug prices was 3 percent only.

No mention was made of the fact that the Soviet Union, in which the profit motive does not exist, produced no single new drug since the Communist revolution.

And this being a monopoly investigation, it is surprising that nobody bothered to emphasize that more than 1,300 companies are engaged in the manufacturing of prescription drugs—with no one company accounting for as much as 10 percent of the total sales.

Investigating committees must stay within the boundaries of their jurisdiction, and they must pursue fact, not fancy. The congressional investigation has tremendous powers. The courts have been reluctant to interfere with the exercise of legislative investigations. The Supreme Court has held that—

"Within the realm of legislative discretion, the exercise of good taste and good judgment in the examination of witnesses must be entrusted to those who have been vested with authority to conduct such investigations."

We Members of Congress are, therefore, to a large degree our own policemen. But—if the policeman himself scuffs the law, who is there left to protect the basic liberties of American citizens and business?

Let these trials of the drug industry not be in vain. Let us all utilize this opportunity for the constant self-searching and stock-taking that are necessary for a society which believes in progress. As long as thousands of people in this country—old, indigent and sick—remain unable to pay the high prices of drugs, it is your moral responsibility—and the moral responsibility of all others connected with the health and welfare of the Nation—to continue to make medical care and attention available to all those who desire them—regardless of wealth and station.

We believe in free enterprise. But free enterprise does not mean selfishness—it means public cooperation, widespread moral responsibility and the constant striving for private and public improvements.

The PRESIDING OFFICER (Mr. BARTLETT in the chair). Is there further morning business? If not, morning business is closed.

CIVIL RIGHTS ACT OF 1960

The Senate resumed the consideration of the bill (H.R. 8601) to enforce constitutional rights, and for other purposes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. FULBRIGHT. Mr. President, the Congress is being exhorted again to enact legislation which is repugnant and unacceptable to a large section of this Nation. The finger of scorn being pointed at the South by the advocates of this bill stirs emotions which have been dormant since the Reconstruction era. The bill constitutes an indictment of 40 million citizens in this region; an indictment which they cannot publicly refute since their representatives' voices are unheeded by the Nation's press. The thoughtful and enlightening remarks of my southern colleagues in this body are treated with derision and disdain by the northern press and information media.

Mr. President, I feel that the emotionalism surrounding the issue before the Senate has made the Nation lose sight of the basic functions of and limitations on any legislative body. The present situation reminds me of a story related by the distinguished philosopher and former Congressman from Illinois, T. V. Smith. I will read this story and Professor Smith's comments on it for the edification of those on the other side of this issue, including the press.

I met sometime ago the wife of a man who once had been a member of a middle western legislature. Being always curious as to the attitude of idealistic people toward their legislative bodies, I engaged her in conversation regarding her husband's experience in politics. She said that she had been originally worried about her husband's getting into politics at all. She had thought politics rotten, you see, calculated to corrupt whomever it touches.

Her husband must have been a very wise man, or at least a very lucky one, seeing how he handled the situation. She said that when he first went off to the Capital City, she told him that she asked only two things: that he would keep personally decent and that he would do his duty by voting his convictions on each bill. Presently he invited her to go with him to the legislature. Being himself very busy, he asked her now and then to read certain bills that he had no time to read, and advise him how to vote upon the bills.

This she undertook to do. The first bill he gave her she read with great care and told him how to vote. But then, she said, there developed a curious situation. After she had advised her husband how to vote, she would go to the committee meetings or hear the debates on the floor. She said that the people on each side would put such good arguments that after listening to the debates she did not know whether her advice to her husband had seen sound or not. This discovery was to her something of a surprise—the double discovery, you see, that each side was reasonable and that both groups were honest. After having this upsetting experience a few times, she said that she told her husband that he would just haye to read the bills for himself thereafter, that she did not know anything more about what was right to do than he.

It is a great discovery for the self-righteous to make. It marks the first crack in the shell of elemental egoism. It is a crack which the Hitlers of life never suffer, nor permit others to enjoy. It is a great day when anyone is brought to suspect that he is no wiser than others, and that others are as honest as he. The beginning of collective wisdom is for each man to discover that he is not God. To discover that is to see why legislatures are necessary and to learn how they can be fruitful. For that is a discovery calculated to emancipate one from his natural narrowness and to start him upon the pilgrimage whose mecca is the full-fledged legislative way of life.

The point of Professor Smith's story is that legislative proposals are not all black and white and that reasonable men can differ on them and still have the best of motives. I commend this story to those who are implying that only the Senators favoring this legislation are honest and sincere and that those of us who oppose it are dishonest and unconcerned about the public interest. I hope that such people will give some thought to this question and come to the realization that there can be an entire spectrum of honest views on how best to serve the public interest.

Much has been said and written about the proper scope of legislative action. Our Nation's history reveals many instances where Congress has acted in an area where problems are not susceptible to legislative solutions. The most analogous to the present, the Reconstruction laws, which were coercive in nature and designed to elevate an unprepared minority group to a position of disproportionate influence over the majority. The experiment was disastrous to the South and the entire Nation. The prohibition amendment is another vivid example of the overstepping of legislative bounds. When the Congress attempts to regulate moral conduct by making the Federal Government the arbiter of such conduct it is on thin legislative ice. All of the many civil rights proposals advanced in this body year after year have as a basic objective the prescription for a particular standard of conduct toward minority groups. I submit, Mr. President, that legislation to regulate men's mores is doomed to failure from the day it is introduced. The distinguished English philosopher Herbert Spencer has commented on the dangers of overlegislating in this manner, and I quote:

To guard its [government's] subjects against aggression, either individual or national, is a straightforward and tolerably simple matter; to regulate, directly or indirectly, the personal actions of those subjects is an infinitely complicated matter. It is one thing to secure to each man the unhindered power to pursue his own good; it is a widely different thing to pursue the good for him. To do the first efficiently, the State has merely to look on while its citizens act; to forbid unfairness; to adjudicate when called on; and to enforce restitution for injuries. To do the last efficiently, it must become an ubiquitous worker—must know each man's needs better than he knows them himself—must, in short, possess superhuman power and intelligence. Even, therefore, had the State done well in its proper sphere, no sufficient warrant would have existed for extending that sphere; but seeing how ill it has discharged those simple offices which we cannot help consigning to it, small indeed is the probability of its discharging well offices of a more complicated nature.

The proposition that the Federal Government is uniquely qualified to enforce individual rights more capably than the individual himself is implicit in the pending legislation. Such a role for Government can lead only to prescription of homogeneous conduct for all citizens—conduct promulgated and enforced by some isolated Government bureau chief. We are already plagued with the problem of uniformity and a general tendency to stifle new ideas. The tendency to attempt to legislate moral values, and a national standard of conduct, can lead only to mediocrity and uniformity with a resulting destruction to the widely varying cultural differences which constitute the essence of America. Consider for a moment the pressures exerted by certain organizations to eliminate racial reference in some of the Nation's best known songs. What effect can this have on a particular person's propensity to discriminate against those of another race or color? This type of pressure can only succeed in destroying and distorting cultural variations which make ours a unique people. I submit, Mr. President, that history has been kind in forgiving our mistaken attempts to legislate away social evils not subject to political solution. Let us not press our luck too far.

Mr. President, I ask the proponents of this legislation to stop for a moment and consider this question. Who actually enforces the laws of our Nation? This may seem a strange question to pose at this point, but it is basic to consideration of any legislation directed at a particular community or group of people. We have always prided ourselves on our faith in the old cliche that we are a Nation governed by laws and not by man. Rational lawmaking rests on the foundation that conscience and public opinion actually enforce the law; not a policeman with a gun and a night stick. I commend the following statement on this point to my colleagues who are obsessed with the idea that a "big brother" approach is necessary to bring about respect for the law in the South. The comment is by the late Arthur T. Hadley, former president of Yale University. I quote:

Who enforces the laws?

The first impulse of most people would be to answer, "the police and the sheriffs, with occasional assistance from the Army in emergencies." But if we stop to think about the matter we shall see that this is a very superficial view of things, and that only a small fraction of our law enforcement is secured or needs to be secured in this way. In 99 cases out of 100 obedience to the law is quite voluntary. The people at large do not have to be compelled by the police to obey the laws against murder or burglary or the various regulations for the convenience of the public. They do it of themselves, either as a matter of conscience or in deference to public opinion. And the fact that they do it of themselves is the thing which makes civilized society possible. It enables the police to concentrate their attention on the work of protecting the public against a relatively small number of habitual lawbreakers who do not recognize their moral obligations to themselves or to society. Conscience and public opinion enforce the laws; the police suppress the exceptions.

The people of the South do not need referees, marshals, or any other Federal

officials breathing down their neck constantly to obey the law. They, as citizens in other parts of the Nation, obey the laws out of respect and a sense of social responsibility. Our section has its share, and no more, of social misfits who do not respect law and order. We do not take kindly to the implied accusation that Southerners accept disrespect for the law as part of their way of life.

It is obvious that the entire structure of modern society is based on the proposition that man is tempered by background and environment to respect the right of his fellowman without coercion from a law enforcement officer. Indeed, the basic concept of freedom is self-control and the exercise of a sense of responsibility for others. Passage of laws which do not command the respect or the sympathy of the majority of the citizens in the community to which they are directed tends to bring about disrespect for the source of those laws. This is especially true when the people affected feel oppressed and persecuted by the legislative body or by a judicial body masquerading as a legislative body. And when different governmental authorities have different policies, chaos follows. What will this crossfire between government authorities do to the respect for law and order held by the poor citizens caught in between? Such a conflict can only confuse them and tend to bring all branches of the Federal Government into further disrepute.

The community conscience of the South is keenly aware of the problems which confront it. Its conscience is sensitive to outside criticism and intervention on what is essentially a community problem. The South bitterly resents attempts to press theoretical solutions on it which do not take into account the historical background of its problem. Any law which fails to take into account the community attitudes toward that law is doomed to failure. Justice Brandeis has said:

> No law can be effective which does not take into consideration the conditions of the community for which it is designed; no law can be a good law—every law must be a bad law—that remains unenforced.

It is obvious that this truism is being violated by the proposal before us. The southern community considers these measures to be unnecessary, and an affront to its dignity. Laws must take cognizance of the peculiar problems to be encountered in enforcement. Likewise, laws must be enforced efficiently and impartially in order to maintain public respect for them. What of the many unused criminal statutes now on the book protecting voting rights. I cannot understand how respect for law and the Federal authority can be created when the laws now protecting voting rights are admittedly not enforced by the Federal Government. This is hardly conducive to creating respect for additional and superfluous laws on the same subject.

Mr. ERVIN. Mr. President, will the Senator from Arkansas yield for a question, or would he rather yield later?

Mr. FULBRIGHT. I shall be glad to yield to the distinguished Senator from North Carolina for a question.

Mr. ERVIN. I should like to ask the Senator from Arkansas if the voting rights provision in the bill will not remain entirely inoperative unless the Attorney General of the United States requests the court to pass on the question whether there is, in a particular voting precinct a pattern or practice of discrimination based upon race?

Mr. FULBRIGHT. That is correct.

Mr. ERVIN. In other words, is it not true that under this bill the Federal courts would be powerless to make any such finding unless they were first requested by the Attorney General of the United States to do so?

Mr. FULBRIGHT. That is my understanding of the bill.

Mr. ERVIN. The only person who can request such a finding, out of the approximately 170 million people in the United States, is the temporary occupant of one political office; namely, the occupant of the office of Attorney General?

Mr. FULBRIGHT. That is correct.

Mr. ERVIN. Does not the Senator agree with me in the thought that any law is bad which provides that it can be placed in operation only at the request of a single human being out of all the hundreds of millions of human beings on the face of the earth?

Mr. FULBRIGHT. The Senator is correct, especially when that particular officer under our system, quite properly, is a political appointee, no matter who occupies the office.

Mr. ERVIN. I ask the Senator whether he agrees with me that it is virtually impossible at times to distinguish between the Attorney General in his capacity as a law-enforcement officer and the Attorney General in his capacity as a partisan politician.

Mr. FULBRIGHT. The Senator is right. At one time the Postmaster General occupied that role, but in recent years the Attorney General has tended to be the political leader in the Cabinet.

Mr. ERVIN. So in the section of the bill relating to voting rights, Congress, in effect, is making the proposed law the personal political possession of a nonelected official; namely, the Attorney General.

Mr. FULBRIGHT. The Senator is correct.

Mr. ERVIN. I thank the Senator.

Mr. FULBRIGHT. That is one of the most offensive aspects of the proposed legislation. I do not like to question the motives of my colleagues in the Senate, and I do not do so, but I cannot help feeling that the principal force behind this kind of legislation is the desire of some politicians to obtain a political advantage in a few large metropolitan cities.

Mr. ERVIN. I should like to ask the Senator a question on this crucial point, in a constitutional sense. It has been held many times by the Supreme Court of the United States that under the doctrine of separation of powers, created by the first, second, and third articles of the Constitution, Congress cannot pass a law which delegates to an executive officer powers unless Congress spells out in the law certain standards or guides to be followed by the executive officer in applying that law. I ask the Senator from Arkansas if the pending bill is not totally devoid of any standards or guides which would enable the Attorney General to determine when he shall make a request that the court make a finding of the existence of a pattern or practice of discrimination, and when he shall refrain from doing so.

Mr. FULBRIGHT. Yes; the Senator is correct. However, I must add that due to the outstanding contribution made by the Senator from North Carolina on this very point, the bill is much better in that respect than it was when first introduced. I wish at this time to pay tribute to the Senator from North Carolina who, I believe, is one of the most distinguished lawyers ever to serve in the Senate. In his understanding of both the Constitution and laws pertaining to this subject he is without peer. With the amendments which he inspired, both on the floor of the Senate and in committee, he has made the bill far more palatable than it was in its original form. As a result, the bill is far less shocking to the principle of law the Senator has just stated as being inherent in our constitution.

Mr. ERVIN. I am deeply grateful to the Senator from Arkansas for his graciousness.

Mr. FULBRIGHT. I do not believe that anyone outside this body will ever realize how much the Senator from North Carolina has contributed through his capacity to elucidate the very difficult points of law involved in the debate on the pending bill. He has rendered a great service, not just to the South, by any means, but to the entire Nation. Especially in the light of history, his contribution will be recognized and appreciated. Because of his efforts we have retained some sense, some balance, some respect for our Constitution in the consideration of the pending bill.

Mr. President, I have already cited, in an earlier speech, laws which are already on the books, both State and Federal—laws which, if utilized, would be more than adequate to deal with the problem under discussion. At this point I ask unanimous consent that a memorandum, prepared by the Legislative Reference Service of the Library of Congress, containing the citations of existing Federal statutes prohibiting discrimination in voting, be printed in the RECORD.

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

EXISTING FEDERAL STATUTES PROHIBITING DISCRIMINATION IN VOTING

Conspiracy against rights of citizens (18 U.S.C., 1958 ed., sec. 241): Conspiracy to injure, oppress, or intimidate citizens in the free exercise of federally secured rights and privileges, is a criminal offense, punishable by a fine of not more than $5,000, or imprisonment for not more than 10 years, or both.

Deprivation under color of law (18 U.S.C, 1958 ed., sec. 242): The willful subjection of any inhabitant of a State, Territory, or Dis-

trict, under color of law, to the deprivation of rights, privileges, or immunities secured by the Constitution or laws of the United States or to discriminatory pains, punishments or penalties on account of his being an alien or by reason of his race or color is a criminal offense, punishable by a fine of not over $1,000 or by imprisonment of not more than 1 year, or both.

Intimidation of voters (18 U.S.C., sec. 594): Seeking to intimidate a person for the purpose of interfering with the exercise of his voting rights, is a criminal offense, punishable by a fine of not more than $1,000 or by imprisonment for not more than 1 year, or both. "Any election held solely or in part" for the purpose of electing Federal officers, is covered by this act. However, by the definition of "election" contained in 10 U.S.C., section 591, this act does not cover primary elections.

Voting rights (42 U.S.C., 1958 ed., sec. 1971): This act consists of the provisions of R. S. section 2004 (which was derived from the act of May 31, 1870, 16 Stat. 140, ch. 114, sec. 1), as amended by the Civil Rights Act of 1957 (P. L. 85–315, pt. IV, sec. 131) and is concerned directly with the elective franchise:

(a) This subsection, originally derived from the Civil Rights Act of 1870, provides that all citizens, otherwise qualified by law, shall be allowed to vote at any election without regard to race, color, or previous condition of servitude.

The Civil Rights Act of 1957 added four new subsections to this section which provide substantially as follows:

(b) Intimidation, threats, coercion: No person shall intimidate, threaten or coerce, or attempt to intimidate, threaten or coerce, another for the purpose of interfering with his right to vote in any election or primary election held solely or in part for the purpose of nominating or electing candidates for Federal office.

(c) Injunction, costs: The Attorney General of the United States is authorized to institute, for or in the name of the United States, any civil action or proper proceeding for preventive relief, whenever any person has deprived or is about to deprive another of rights secured by subsections (a) and (b) above. The United States shall be liable for costs in such a proceeding, the same as a private person.

(d) Jurisdiction, exhaustion of other remedies: The Federal district court is given jurisdiction of proceedings instituted under subsection (c), above and shall entertain such proceedings without requiring that the party aggrieved first exhaust any administrative or other remedies which may be provided by law.

(e) Contempt; assignment of counsel; witnesses: Any person who is cited for an alleged contempt of court under this act, shall be entitled, upon his request, to be assigned legal counsel without charge if he is financially unable to pay for same.

Civil action for deprivation of rights (42 U.S.C. 1983): Every person who, under the color of law, subjects another or causes another to be subjected to the deprivation of any federally secured rights, privileges, or immunities, shall be liable to the injured party in a civil action or suit in equity or other proceeding for redress. Review: Such cases shall be reviewable by the Supreme Court without regard to amount in controversy (42 U.S.C., sec. 1984).

Conspiracy to interfere with civil rights (42 U.S.C., sec. 1985(3)): If two or more persons conspire to prevent a citizen who is lawfully entitled to vote, from voting as he chooses for Federal officers, or injures him in his person or property for so voting, the party thus injured may have a civil action for damages against one or more of the conspirators.

Action for neglect to prevent (42 U.S.C., sec. 1986): Any person who has knowledge that any of the wrongs conspired to be done which are forbidden by 42 United States Code, section 1985(3), above, are about to be committed, and having power to prevent same, neglects or refuses to do so, shall be liable to the injured party for all damages caused by the wrongful act which such person by reasonable diligence could have prevented. Such an action must be commenced within 1 year after the cause of action has accrued.

Jurisdiction and venue (28 U.S.C., 1958 ed.):

Civil rights and elective franchise (28 U.S.C., sec. 1343): The district courts shall have original jurisdiction of any authorized civil action (1) to recover damages for injury to person or property, or because of deprivation of a right or privilege of U.S. citizenship, by any act done in furtherance of a conspiracy mentioned in 42 United States Code, section 1985; (2) to recover damages from any person who (under 42 U.S.C., sec. 1986) fails to prevent wrongs mentioned in 42 United States Code, section 1985 of which he had knowledge and which he could have prevented; (3) to prevent the deprivation, under color of law, of any right, privilege or immunity secured by Federal law or Constitution; (4) to recover damages or secure equitable or other relief under any act of Congress providing for the protection of the right to vote.

Election disputes (28 U.S.C., sec. 1344): The district courts shall have original jurisdiction of a civil action to recover any office except a Federal office or that of a member of a State legislature, where the only question affecting title to the office arises out of denial of the right to vote to any citizen because of race, color, or previous condition of servitude.

Removal of cases from State courts—civil rights cases (28 U.S.C., sec. 1443): The following cases, commenced in a State court may be removed by the defendant to a U.S. district court:

(1) Against a person who is denied or cannot enforce in the State court, a civil right inuring to all U.S. citizens;

(2) For an act under color of authority derived from a law providing for equal rights, or for refusing to do an act on the ground that it would be inconsistent with such law.

Reduction of representation (2 U.S.C., 1958 ed., sec. 6): Should any State deny or abridge the right of a citizen to vote, except for crime, the basis of representation of that State in Congress shall be proportionately reduced.

CONSTITUTIONAL PROVISIONS

The Federal statutes listed above, which prohibit discrimination in voting, are the implementation by Congress of certain provisions of the U.S. Constitution which grant the Federal Government the power to protect the franchise.

In addition to the provisions which have been implemented. There are other constitutional provisions, which, together with the Federal statutes listed above, have been interpreted by the Supreme Court as protecting the franchise from discrimination by States, by the Federal Government, or by private individuals.

These, briefly summarized, are as follows:

Fourteenth amendment: All persons born or naturalized in the United States and subject to its jurisdiction are citizens of the United States. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States. Congress is empowered to enforce this provision by legislation.

(The elective rights guaranteed by the 14th amendment afford protection only against deprivation by States (*Hodges* v. *U.S.*, 203 U.S. 1, 14 (1906)).)

Fifteenth amendment: The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State because of race, color, or previous condition of servitude. Congress is empowered to enforce this provision by appropriate legislation.

(This provision obviously affords protection against the deprivation of voting rights by the Federal Government or by the State.)

Nineteenth amendment: Prohibits denial or abridgment by the United States or a State, of right to vote on account of sex.

Article I, section 2; 17th amendment: Those persons voting for U.S. Senators and Representatives shall possess the same qualifications as those entitled to vote for members of the most numerous branch of the State legislature.

(The Supreme Court has ruled that the right to vote for Members of Congress is a right derived from and secured by the Constitution of the United States. Ex parte *Yarborough* (110 U.S. 651 (1884)). This right is secured against the actions of individuals as well as States (*U.S.* v. *Classic*, 313 U.S. 299, 214–315 (1941)).)

Article I, section 4: The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by its legislature, but Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

Mr. FULBRIGHT. Mr. President, additional laws in this explosive field of racial relations will not be widely respected in the South, and enforcement problems will bring about further strife and turmoil. An attempt by the North to decree a mode of life for the South, of whose circumstances and desires it has no understanding, can only lead to serious trouble. I cannot overemphasize the impact which this legislation will have on the southern community.

Mr. President, it is a dangerous procedure for a legislative body to attempt to remake society in its own image. The possibility of molding human nature to eliminate supposed social evils is always tempting to any large majority. On many occasions in history majorities have oppressed minorities in the name of righteousness and morality, but with little regard for the relevance of the cure for the real or imagined disease.

We would all like to rid the world of sin, corruption, greed, and the other standard vices. But, as legislators, we must recognize the frailties of human nature and realize that such a task is impossible. It is certainly impossible to legislate a model code of moral conduct capable of reconciling the myriad of moralistic concepts held by the 170 million people in this Nation. If this were not so would it not be wise to legislate the Golden Rule?

Throughout history man has come to grief from his attempts to change human nature. Warnings against such action have been sounded loud and often, but legislatures, not being infallible, continue to make further attempts to achieve this utopia in human relationships.

Discrimination and bias cannot be legislated away, regardless of how many bills we pass. As I have pointed out

many times before, the problems in this area can be solved only through education and conversion of the human heart. To enact needless laws for purely political purposes does violence to the efforts of those in the South who are deeply concerned and are trying to bring about improvements in this difficult area of human relationships.

Mr. President, the history of our Nation's experience with the prohibition laws taught us a rather short-lived lesson on the folly of the majority prescribing moral standards for all men. Lessons should have been learned from this period which are directly applicable to the present controversy. It is almost universally recognized that national prohibition was a mistake. However, there are still millions who abhor the use of alcohol in any form. In fact, a majority of the counties in my State have voted "dry" under local option. I do not believe that the citizens in those counties would wish to impose their views on the subject on citizens throughout the country. Prohibition represented tyranny at its worst—the forcing by the majority on the minority its own peculiar standards of life. The population of the United States at the time of prohibition, and as now, held extremely divergent opinions regarding the use of alcoholic beverages. The problem had an entirely different aspect in the North than in the South, and a different aspect in the cities from that in the small towns and rural areas. Prohibition was in effect the attempted control of conduct on the other sections by the South and the West. Sectional tyranny is again being urged in this body. As some of us have pointed out repeatedly, this bill is not designed merely to guarantee voting rights. It is a part of a scheme to prescribe moral standards for human conduct toward a minority race. The North has arrogated unto itself the position of supervising human relations in the South.

Let me digress at this point to discuss some aspects of majority control and responsibility which apparently have not occurred to the proponents of this bill. Any constitution or basic political compact is in effect a limitation on the power of the majority. The late Charles Nordhoff said:

> A political constitution is the instrument or compact in which the rights of the people who adopt it, and the powers and responsibilities of their rulers, are described, and by which they are fixed.
>
> The chief object of a constitution is to limit the power of majorities.
>
> A moment's reflection will tell you that mere majority rule, unlimited, would be the most grinding of tyrannies; the minority at anytime would be mere slaves whose rights to life, property, and comfort no one who chose to join the majority would be bound to respect.

It is obvious to all that a majority, by virtue of its power, should not have unlimited authority to work its will upon the minority. There are limitations on what a majority can and should do.

It will be recalled that prohibition created a nation of lawbreakers. The speak-easy and bathtub gin became symbols of the disrespect which millions of citizens had for the prohibition laws. Enforcement was a mockery. The public treasury would have become bankrupt by building jails capable of accommodating all persons who violated the prohibition laws if the laws had been enforced. Citizens broke the law with impunity and without fear of punishment. In fact, it was the popular and smart thing to do. Respect for the law reached a new low and contributed to the general decadence of that era in our history. This was without doubt one of the most violent and wicked periods in our history. The disrespect for the prohibition laws bred disrespect for all other laws and the law enforcement system. I cite this for the purpose of showing that a parallel to that unfortunate period could be created in the South by passage of this coercive measure. I do not and I will not condone violation of the laws or violence in any form, regardless of the unpalatability of the content of the law. I wish only to state a sociological truism that further Federal impositions on southern attitudes and beliefs are likely to cause people in that section to react almost involuntarily. I urge that this risk not be taken.

I yield the floor.

Mr. SPARKMAN. Mr. President, before the Senator from Arkansas yields the floor, will he yield to me?

Mr. FULBRIGHT. I shall be pleased to yield to my friend and colleague from Alabama.

Mr. SPARKMAN. A few minutes ago, the Senator mentioned the various laws on the statute books, both Federal and State. Is the Attorney General so eager to get new laws on the statute books that he does not know of the existence of the present laws?

Mr. FULBRIGHT. I think he has brought actions in four instances, but that is all.

Mr. SPARKMAN. The Senator is correct.

Mr. FULBRIGHT. Two of them have reached the Supreme Court.

Mr. SPARKMAN. Yes; that is correct. I placed in the RECORD the number of laws which are now in effect. I made that point in a previous speech. The Senator is absolutely correct.

Mr. FULBRIGHT. In my State it was found that there was no need for the laws already on the books.

Mr. SPARKMAN. I was going to ask the Senator about that. I am not familiar with the situation in Arkansas, but last night I discussed the situation with respect to Alabama.

In Alabama, any person, who believes that he has been wrongfully denied registration, may, within 30 days, file a complaint in the circuit court. He is not required to secure costs. If the court rules against him, he may take his case to the State supreme court under a preferred status.

Yet in spite of the complaints the Senator has heard directed toward Ph. D.'s at Tuskegee, for instance, does it not seem passing strange that not one of them has ever, so far as I am informed—and apparently within the knowledge of the Governor of our State, who testified to this effect—initiated an action complaining of his failure to be properly treated so far as registration is concerned?

Mr. FULBRIGHT. The Senator is absolutely correct. According to my information, it has been demonstrated that ample authority exists in the present statutes to secure whatever rights are sought to be secured.

Mr. SPARKMAN. Does not the Senator agree with me—and I wish the Senator from North Carolina would listen to my question—that an effort is being made to short circuit recognized court procedures and recognized court decisions under existing statutes? Is not that the real difference?

Mr. FULBRIGHT. That effort is being made. I may say, as I said a moment ago, that that was clearly the original intent; but due to the outstanding work of the Senator from North Carolina [Mr. ERVIN], the Senator from Alabama [Mr. SPARKMAN], and other Senators, I believe that particular aspect has been greatly diminished.

Mr. SPARKMAN. However, there is still a short circuiting of due process. The fact is that the Federal referee functions as an administrative officer.

Mr. FULBRIGHT. That is much better than to send a registrar from some ward in Chicago to supervise the matter.

Mr. SPARKMAN. Theoretically, it is.

Mr. FULBRIGHT. It is strange how pure are elections in Chicago and New York, and how the people of the North would like to supervise our elections in the South.

Mr. SPARKMAN. Does the Senator remember the Reconstruction Act of 1871, of which the pending proposal is a copy?

Mr. FULBRIGHT. Yes; and the machinery of that act was used against the entrenched machines in Chicago, New York, Philadelphia, and places like that.

Mr. SPARKMAN. And this contributed to its repeal, did it not?

Mr. FULBRIGHT. Yes.

Mr. SPARKMAN. Does the Senator recall that in 1894, when the act was repealed, not a single tear was shed in the U.S. Senate? As a matter of fact, the Democrats took the lead in repealing the act, but most of the Republicans followed along quietly, although some of them spoke out strongly on the subject.

I related a little incident last night which I had heard. I think the Senator from Arkansas would be interested in it. Frankly, I cannot document it now, although it is capable of documentation. If I recall correctly, one of the outstanding Republican Members of the Senate at that time was Senator Hoar, of Massachusetts. In later years, after he had left the Senate, Senator Hoar wrote his memoirs. He referred to the repeal of the Reconstruction Act of 1871 and told how the Republicans had been responsible for putting it on the statute books, keeping it there, and sweating with it and worrying with it through the years. In 1894, the Democrats came into control of Congress, and there was a Democratic President. In other words, the Democrats were in control of the Government.

Mr. FULBRIGHT. Grover Cleveland was President.

Mr. SPARKMAN. Grover Cleveland was President and Congress was in control of the Democrats. The Democratic Congress repealed the Reconstruction Act. Senator Hoar brought out the fact that even though he was not in a position to stand up and advocate its repeal, he had no grief over its repeal.

I think that is a rather interesting commentary on the Republicans who had placed that law on the statute books. Does not the Senator from Arkansas believe that the pending proposal may very well turn against some of the very ones who today are advocating it?

Mr. FULBRIGHT. I think it certainly may. I believe that history again will prove the unworkability of this kind of statute.

This discussion with the Senator from Alabama reminds me again of the great weakness in our educational system. It is unfortunate that some of the Members of this body have not had better teaching in history. I believe that the principal sponsors of the proposed legislation would never have been its sponsors if they had a better understanding of our country's experiences and history along the lines which the Senator from Alabama has just mentioned. This is another reason why I am such a devoted supporter of improvements in our educational system. How can we operate the Senate properly if our Members cannot learn from the mistakes of the past? If we do not learn, we will repeat all the mistakes which have been made in history. We certainly should learn from our country's experiences. The experience with prohibition should have taught us something.

Mr. SPARKMAN. It would not be at all difficult to acquire a little learning on this subject, because a rather elaborate debate took place on it in 1894.

Mr. FULBRIGHT. Senator Berry, of Arkansas, made one of the most eloquent and well-reasoned speeches on the subject, as did Senator Turpie, of Indiana, and Senator Bates, of Tennessee.

Mr. SPARKMAN. Do not forget Senator Vest, of Missouri.

Mr. FULBRIGHT. Yes; also Senator Vest, of Missouri. I quoted from his speech recently. Those Senators made very fine presentations and gave the real reasons why this kind of legislation is a great mistake and great tragedy for our country.

Mr. SPARKMAN. The report of the committee which reported the bill at that time was a tragedy.

Mr. FULBRIGHT. It is too bad that our colleagues have not paid more attention to our country's experiences in history. If they had, I do not believe they would have had the courage to try to repeat those experiences by reviving this kind of a proposal.

Mr. SPARKMAN. We spoke a few minutes ago about four cases which the Attorney General had brought under the Civil Rights Act of 1957. One of the suits which are pending in the Supreme Court now comes up from my State of Alabama. It grows out of a situation in Macon County, which is where Tuskegee Institute is located.

The Attorney General complained. As a matter of fact, he started the action, and sought to make the State a party defendant. The district judge ruled it out. It went to the circuit court of appeals, which also ruled it out, with a very decisive and incisive decision.

They sought also to make parties defendant former registrars who no longer held the office of registrar; and the Attorney General advanced what I consider to be the ridiculous argument that once a person serves in the office of registrar, he cannot resign that office or get out of it until someone else is ready to take his place; and that if he does resign, his resignation is ineffective and he is still responsible for that office until someone else is ready to take his place. One of the registrars died, but, evidently, under the Attorney General's argument, the deceased registrar would still be regarded as holding that office until his successor took office.

Mr. FULBRIGHT. In other words, the deceased registrar would still be counted as being responsible for that office?

Mr. SPARKMAN. Well, it does not seem quite right to say that, but the argument of the Attorney General would almost seem to amount to that.

We had three members of the board of registrars; and the Attorney General said there was a mass resignation. One of the registrars died, which left two registrars to constitute a quorum. Another one of the registrars decided—a year before all this took place—that he wished to serve in the State legislature; and he ran for election to the legislature, and was elected.

Under the law of our State—and I am sure the same is true under the laws of Arkansas, North Carolina, and all the other States—a person is forbidden, by constitutional provision, to hold two offices of profit under the State at the same time.

Mr. FULBRIGHT. Yes.

Mr. SPARKMAN. The registrar who ran for election to the State legislature, and was elected, wanted to be sworn in as a member of the legislature. Therefore, he resigned from the board of registrars. But the Attorney General contends that that man is still a member of the board of registrars—contrary to what is possible under the State constitution.

Another one of the registrars took another office, and resigned as registrar. But the Attorney General seeks to hold the three former registrars still responsible for what goes on there.

Mr. FULBRIGHT. That is perfectly ridiculous.

Mr. SPARKMAN. And the Attorney General has issued a statement—and I should like to have the opinions of the Senator from Arkansas and the Senator from North Carolina [Mr. ERVIN] on this matter; I may be entirely wrong in my view of this statement by the Attorney General—as follows:

A State official may be so invested with a Federal duty as to become a Federal officer for Federal purposes.

That seems absolutely foreign to my view regarding the separation of the dual systems of government in this country—the State governments and the Federal Government.

Mr. FULBRIGHT. That theory of the Attorney General is a very strange one; it is based on a new and original idea.

Mr. SPARKMAN. It might be interesting to Senators to read the brief of the Attorney General in the case that is pending at this time in the Supreme Court.

Mr. ERVIN. Mr. President, will the Senator from Arkansas permit an interruption, if it is understood that I may say a word at this time without causing him to loose his right to the floor——

Mr. FULBRIGHT. Certainly. In fact, I am about to take my seat.

Mr. SPARKMAN. We shall be very glad to hear from the Senator from North Carolina.

Mr. ERVIN. Then I would say the Senator from Alabama is absolutely correct in the statement he has made.

As a matter of fact, this is something I thought about when I read the statement of the Attorney General, a portion of which has just now been read to the Senate by the Senator from Alabama: Although the Presidential electors are those who elect the President of the United States, under the Constitution of the United States, it has been held by the Supreme Court, in several cases, that a Presidential elector remains a State officer.

Mr. SPARKMAN. The Senator is correct.

Mr. President, I thank the Senator from Arkansas for yielding to me.

Mr. FULBRIGHT. It has been a pleasure to do so, Mr. President.

Mr. EASTLAND obtained the floor.

Mr. McNAMARA. Mr. President, will the Senator from Mississippi yield?

Mr. EASTLAND. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Michigan, with the understanding that in doing so, my right to the floor will not be prejudiced, and with the further understanding that when I address the Senate, following the remarks of the Senator from Michigan, my remarks will not be counted as a second speech by me.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. McNAMARA. I thank the distinguished Senator from Mississippi for yielding to me at this time.

Mr. President, once again we are at the stage in the civil rights debates where we must cast our votes either for or against a measure.

For many Senators this will not be a hard decision to make.

There are those, for example, who like to call themselves "moderates" and for whom practically anything with the name "civil rights" attached to it would be sufficient. They will happily vote "aye."

Then, of course, there are Senators who wanted no legislation at all enacted

in this field. Naturally, they will have no problem in voting against this bill.

We may surmise, however, that some in the latter group may have to watch their step, lest they vote for the bill out of jubilation over getting off so easily.

The hardest decision, as usual, faces those of us who wanted a genuine civil rights bill, one that would really attack the problems that need solving. Unhappily, we do not have such a bill before us today.

We have a watered-down bill that has been so further diluted that it will wash right out of this Chamber and hardly will be noticed in the mainstream of American life.

It need not have been this way. Indeed, it should not have been this way, if the Congress is to be truly concerned about the hundreds of thousands of Americans who are forced to live their lives as second-class citizens.

However, the fact that the bill upon which we now must vote turned out to be as waterlogged as it is, should be no real surprise to anyone. The fact of the matter is that this was preordained.

Right from the very beginning of the so-called civil rights fight of 1960, the exact course events would take had been freely predicted.

First, the Senate, in keeping with the promises made last year, would have civil rights before it for debate by February 15. This took place on schedule.

There followed weeks of debate, with all the trimmings—including dramatic efforts to crush a filibuster, by keeping the Senate in around-the-clock sessions.

But when 31 of us signed a petition—after weeks of talk—to invoke cloture and really crush the filibuster, both the majority leader and minority leader threw their weight against us. As a practical matter, however, our cloture petition did have the effect of ending the filibuster and the ridiculous around-the-clock sessions.

But we all knew that the filibuster and the dramatics were really only window dressing. They were a show for the passing throng. They meant absolutely nothing, because what the mighty Senate really was awaiting was passage of a weak civil rights bill by the House.

Once the House acted, the Senate quickly brought the House bill before it for action, again according to plan. And that is the bill, weakened even more, that we must now vote upon.

Mr. President, I do not mean to suggest that the bill now before us does not represent the will of the majority of the Senate.

Obviously the bill does represent the will of the Senate, since those of us who wanted a strong civil rights bill have had every opportunity to propose amendments, and to have them voted on, even if many of the votes were on tabling motions offered by the majority and minority leaders.

Time after time, our strengthening amendments were rejected by a majority of the Senate; so we cannot claim we were prevented from offering our proposals.

Of course, the fact that we were beaten before we started—beaten by the committee seniority system, beaten by the combined strength of the leadership of both parties, and beaten by the usual voting coalition—does not alter the fact that we lost.

The surprising thing is that with all the leadership on the same side, it took so long to accomplish so little.

Actually, the handful of Senators who tried for a strong civil rights bill were not the ones who really lost. The real losers are the hundreds of thousands of Negroes in some areas of our country who looked to the Congress of the United States as their last hope for the protection of their rights.

They had looked to their States, and found the solid weight of these governments against them.

They had looked to the Attorney General, and found that he would not use to full advantage the considerable power he already possesses.

They looked to their President, and found him typically mute and unconcerned over their problems.

So again they looked to the Congress of the United States.

And again we raised their hopes with weeks of stirring debate directed at their problems, hopes which now have been dashed again with this bill.

As I see it, there is really only one bright spot should this bill be signed into law.

And this is that we will have established a precedent of adopting civil rights legislation in each Congress.

In 1957, in the 85th Congress, we managed to break through the barriers of tradition and prejudice and pass the first civil rights bill in more than 80 years.

This year, in the 86th Congress, we are adopting another bill that will be permitted to impersonate civil rights legislation.

There will, I am sure, be another bill in the 87th Congress, and another in the 88th.

Little by little, we will hopefully add to the arsenal of weapons necessary to combat bias and prejudice and discriminatory laws and practices.

Little by little, the true meaning and benefits of American democracy will be distributed fairly among her citizens.

Again I want to thank the Senator from Mississippi for yielding to me.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. EASTLAND. Mr. President, I move that the pending bill be recommitted to the Senate Committee on the Judiciary.

The reasons for this motion are obvious. The bill came over to the Senate from the House, and went to the Judiciary Committee with 5 days' limitation for consideration, which was wholly inadequate.

As I remember, the committee considered 36 amendments to the bill. Fifteen amendments, requiring 17 modification in the House bill were made.

Since the bill came to the floor, other "bugs" have been found in the bill; and I submit that it should go back to the Judiciary Committee for further study and further consideration. I do not think any Member of this body can say that a period of 5 days is adequate time to consider a bill that is as far-reaching as this bill; and it is the judgment of the senior Senator from Mississippi that the motion to recommit should be adopted.

Mr. President, in the long history of this country, Congress has never wasted more time on futile, useless, and unconstitutional business than it has during this debate on the so-called Civil Rights Act of 1960. Here in the Senate we are entering the eighth week of the debate. The bill that has now been read for the third time is far different in its content and character than those proposals—numerous as the sands of the sea—that were originally advanced by proponents of civil rights, extending from the liberal wing of this side of the floor to those advanced by the Eisenhower administration and urged upon this body by the Republican leadership.

The pending bill now contains six substantive titles.

As to title I, while I personally see no need or justification for a new federally defined crime involving the obstruction or attempts to obstruct Federal court orders, as long as this is a crime of general applicability extending to all court orders, it cannot be charged that the law is unjust on its face. Of course, regardless of its language and regardless of the fact that it is now a general law, no one will attempt to contradict the statement that its primary target is southern people, caught in the spider web of a U.S. Supreme Court in that area of judicial usurpation where the Federal judiciary is unconstitutionally and unconscionably attempting to integrate white and Negro children in the public schools of the Southern States.

The first section of title II also creates a new Federal crime, and this crime was originally defined as reaching only those misguided southern white people who might be guilty of damaging or destroying, by fire or explosives, public school buildings and churches. It also was enlarged to include flight to avoid prosecution for damaging or destroying any building or other real or personal property. I might say here, Mr. President, that the law enforcement agencies and courts of the Southern States are capable and efficient. Those guilty of such heinous crimes as defined in this new Federal law will be apprehended and punished by State authority, and there is no need whatsoever for Federal intervention in this field. The new crimes created and defined by section 203 of title I are not in any sense related to civil rights and have no place or part in this present pending bill. Proper consideration of these proposed statutes has never been given by the responsible subcommittee in either the Senate Judiciary Committee or the Judiciary Committee of the House of Representatives. It is entirely possible, Mr. President, that in these new statutes, well intentioned as they may be, we are sowing the wind to reap a whirlwind. I doubt that the FBI as it is now constituted is capable of undertaking the responsibilities that will fall upon its shoulders in attempting to investigate and lay the grounds for Federal prosecution for the manifold crimi-

nal acts that will here be encompassed into the body of the Federal Criminal Code.

Title III of H.R. 8601 provides for the preservation for a period of 22 months of all State election records. It further gives to the U.S. Attorney General the right and power to enter the office of a duly constituted State official and examine these election records in any manner, shape, or form he so desires. This title is a flagrant invasion of the reserved rights of the States. Its legal base is founded upon the illusionary constitutional right claimed for the Federal Government to exercise some degree of control over the time, place, and manner that Federal candidates are to be chosen. The Attorney General of the United States frankly admitted, in testifying in favor of the enactment of what is now title VI of this bill, that this section on the preservation of Federal election records which involve only Federal offices was essential for him to obtain the information that he thought would be necessary to sustain actions under title VI, which involve not only Federal elections but also every State election from constable to Governor. To my mind, this is a palpably fraudulent device by which the Government seeks to obtain information in one area where it claims jurisdiction to prosecute actions in another area where it could not obtain the same information on any legal theory involving appropriate legislation under the terms of the 15th amendment. This title is just as objectionable to me and to the people of Mississippi as is title VI itself.

Title IV gives to each member of the Civil Rights Commission the authority to administer oaths or to take statements of witnesses under affirmation. The pity of it is that this title does not abolish the Civil Rights Commission. It has no place in the life of this Nation.

Title V has been drastically altered since it was first introduced. No one can quarrel with the duty and responsibility of the Federal Government to see that children of members of the Armed Forces receive an education. By its present terms, it does no more than that.

The night before last I began a lengthy discussion of title VI, and at this time I propose to continue that discussion and analysis at the point where I then left off.

Mr. RUSSELL. Mr. President, before the Senator launches into that phase of his address, will he be kind enough to yield to me for a question?

Mr. EASTLAND. I yield.

Mr. RUSSELL. The Senator has moved to recommit the bill to the committee, in order that these novel, far-reaching and drastic provisions may be studied thoroughly. Of course, that is the function of a committee. When entirely new thoughts are advanced with respect to proposed legislation—such as those embraced in this referee proposal—the appropriate committee should analyze them to ascertain the impact that they are likely to have upon the lives of our people and the political systems of our States.

Mr. EASTLAND. The Senator is correct.

Mr. RUSSELL. I should like to ask the Senator how many hearings have been held on this new and far-reaching suggestion for placing the election machinery of the several States in receivership? I believe the Senator's committee, in the very limited time given to the committee by the Senate, was able to hold only 2 days of hearings on the proposal—or was it more than that?

Mr. EASTLAND. We had 2 days of hearings, but the Attorney General and the Deputy Attorney General of the United States took more than 1 day to testify. They were the only witnesses who appeared in favor of the bill. Mr. Charles Bloch was the other witness, and he did not have time to finish his discussion. In fact, Mr. Bloch was able to discuss, as I recall, only one part of title VI of the bill—one part of title VI—and did not get down to the referee provision at all.

Mr. RUSSELL. Title VI of the bill, which is the voting referee provision, is the most drastic provision remaining in the bill.

Mr. EASTLAND. That is correct.

Mr. RUSSELL. If I am correct in my facts, and I think I am since I have undertaken to follow the progress of the proposed legislation during its consideration by both bodies, this referee provision does not bear the approval of any standing committee of either the House or the Senate.

Mr. EASTLAND. The Senator is correct.

Mr. RUSSELL. I undertook to follow the matter when it was pending in the other body. It seemed to me that every day the proponents came up with a new version of the proposal. It would be debated for 1 day, and the next day it would be revised and brought in again.

Mr. EASTLAND. As I remember the hearings held by the House committee, Deputy Attorney General Walsh testified. Mr. Bloch happened to be in town on another matter, and he was brought before the committee without preparation.

On the Senate side Mr. Bloch told the committee he got the bill on Saturday and appeared Monday morning, so he had only part of a day or a little more than a day to prepare himself to testify.

Mr. RUSSELL. Mr. Bloch happens to be a personal friend of mine of many years standing. We served together in the General Assembly of Georgia in the early 1920's. I am well acquainted with Mr. Bloch, who is one of the outstanding constitutional scholars in this country today and a leading authority on the Constitution of the United States. However, Mr. Bloch represented only one State—and on a temporary basis. As the Senator states, he had a very limited time for preparation.

Mr. EASTLAND. Yes.

Mr. RUSSELL. What about all the others, the Governors and attorneys general of the several States? Have they had an opportunity to appear in any forum anywhere with respect to this referee matter?

Mr. EASTLAND. No; they have not had such an opportunity. They were denied that opportunity. Mr. Bloch in his testimony specified that he could only speak as the bill would affect the State of Georgia, in the area in which he lived and in the county he represented in a suit which was before the Supreme Court.

Mr. RUSSELL. Mr. President, I desire to repeat that this is a most remarkable procedure to bring a drastic and far-reaching measure of this kind to the Senate and ask to have it adopted without any scrutiny by the proper committee of the Senate and without affording the people who are most vitally affected a full and complete hearing.

Mr. President, I say again what I said at the outset of this debate. If this kind of a proceeding were brought to the Congress of the United States and aimed at any section of this common country of ours other than the Southern States, it would be spewed out in 20 minutes. It would not be countenanced long enough to be discussed. It is a sad commentary on the political life of our times that this great section of the country, which has done its full share and more in war and in peace toward the building of the defenses and in preserving this great Nation of ours, should have to be made the "whipping boy" of the politicians of both of the major political parties in this country.

Mr. EASTLAND. Mr. President, I ask the distinguished Senator from Georgia this question: Did he know that March 14, 1960, was the first time title VI, as it is in the pending bill, saw the light of day?

Mr. RUSSELL. I was not aware of the exact day, but I knew it was after the bill had been under discussion in the Senate for several weeks before the provision was ever presented to either body in this form.

Mr. EASTLAND. Does the distinguished Senator know of any other measure—even a small, picayunish bill—whose consideration has been limited in this way?

Mr. RUSSELL. With the exception of the politically inspired proposed legislation aimed at the Southern States, we do not even pass a claims bill, affecting one citizen of the United States, without giving it scrutiny by a committee, with hearings and action. We have before us a bill which will affect several million citizens and the political systems of great States of this Union. It is brought to the Senate—and the statement is made: "You have to take it and push it through, though it has not followed the ordinary parliamentary proceedings and usage which are accorded to a bill to pay a man for the death of his cow caused by some agent or employee of the U.S. Government."

Mr. EASTLAND. Mr. President, the Attorney General and the Governor of my State desired to testify against title VI. They were denied that opportunity. I understand the same is true with respect to the State of Alabama. I understand the same is true with respect to the State of Louisiana.

In fact, Mr. President, the only opposition witness who testified was the great

lawyer who said, "My preparation is inadequate. Time is too short. I can only speak as to how the bill will affect the State of Georgia."

Mr. JOHNSTON of South Carolina. Mr. President, will the Senator yield?

Mr. EASTLAND. I yield for a question.

Mr. JOHNSTON of South Carolina. Is it not true that when House bill 8601 came from the House to the Senate the Senate acted in a different way upon that bill from the way in which the Senate usually acts, by sending it to the committee?

Mr. EASTLAND. Will the Senator describe the bill?

Mr. JOHNSTON of South Carolina. It is House bill 8601, the bill that is now before us.

Mr. EASTLAND. I did not remember the number.

Mr. JOHNSTON of South Carolina. When it came before us, it was sent to the Judiciary Committee of the Senate with instructions that we could keep it only 2 days, 48 hours. Is not that true?

Mr. EASTLAND. No. The bill went to the Judiciary Committee on Thursday night with instructions to report it back to the Senate by midnight the following Tuesday, which was 5 days later. What is wrong with that is that the bill went to the Government Printing Office, and it was not received back until Friday afternoon. Then there was a great amount of staff work, which required all of Friday night, and it required until Monday, and we had only Monday and we could get only one witness.

Mr. JOHNSTON of South Carolina. The earliest time we could meet was on Monday, and we had only Monday and Tuesday to study the bill, so far as members of the committee are concerned.

Mr. EASTLAND. That is true.

Mr. JOHNSTON of South Carolina. Was not that a new procedure in the Senate?

Mr. EASTLAND. It is entirely new.

Mr. JOHNSTON of South Carolina. At that time, I think the Senator from Mississippi raised the point, as I did, that we would not have sufficient time to study a bill of the magnitude of this bill in such a short period. Is not that true?

Mr. EASTLAND. Of course.

Mr. JOHNSTON of South Carolina. So we are not raising that point at this particular time for the first time.

Mr. EASTLAND. If it were not a bill aimed at the South, it would have received adequate consideration. Any other bill would have received adequate consideration.

Mr. JOHNSTON of South Carolina. Is it not true that when the bill was taken up in the committee on Monday, the Attorney General came before us, and he took up all of Monday and a part of Tuesday explaining the bill?

Mr. EASTLAND. That is correct.

Mr. JOHNSTON of South Carolina. Then, after the committee finished on Tuesday——

Mr. EASTLAND. Let me make a statement at that point.

The chairman of the Judiciary Committee first recognized the Democrats, on the basis of seniority, to ask the Attorney General and the Deputy Attorney General questions. Then the Republicans were given an opportunity. In order for Mr. Bloch to get in just a word or two, we could not give each member on the minority side the courtesy of asking questions of the Attorney General, to clarify the provisions in their minds.

Mr. JOHNSTON of South Carolina. The truth of the matter was that when Mr. Bloch came before us he was not able even to finish reading his written manuscript. Is not that so?

Mr. EASTLAND. Of course. It was placed in the RECORD. As I stated, his testimony covered only one part of title VI. It did not deal with the question of referees at all. It was confined solely to the proceeding before the district judge, before the referee was appointed.

Mr. JOHNSTON of South Carolina. So it is true that the Attorney General took the first day and a part of the second day explaining the bill. The Department had it under study probably for weeks and months. Members of the Department knew about it. Those who were opposing the legislation did not even get to see it until Friday.

Mr. EASTLAND. We were not able to see a copy of the bill until the middle of Friday afternoon, the day after the bill was referred to us. I do not remember the date. The staff could not begin work on it until then. The staff worked all of Friday night.

Mr. JOHNSTON of South Carolina. Is it not also true that when the committee started voting on amendments we had to rush through them with a great deal of haste in drawing up amendments and deciding what amendments should be offered? Many of them we thought of after the bill left the committee.

Mr. EASTLAND. The answer to that is this: We were in such a rush that we had to limit the discussion of an amendment to 5 minutes on each side. Then time was about to run out, and we had to vote on some amendments without discussion. There were members of the committee who did not have the opportunity to ask Mr. Bloch a question. There were members of the committee who did not have the opportunity to ask the Attorney General or the Deputy Attorney General a question.

Mr. JOHNSTON of South Carolina. Did we not also have to act in a peculiar way in reporting the bill back to the Senate? We were not even given sufficient time to write a report concerning the bill. Did we have any report?

Mr. EASTLAND. No. The bill was reported late Tuesday night, at 5 minutes to 12, 5 minutes before the deadline, and it was taken up in the Senate at 10 o'clock the next morning. No; there was no opportunity to write a minority report or a majority report because of the time limitation.

Mr. JOHNSTON of South Carolina. In the case of a bill of this magnitude, is it not very unusual to have a bill coming back to the Senate without any report from the committee?

Mr. EASTLAND. It has been my experience that when there is a majority report, as well as minority views, it is considered proper to give the majority a week in which to prepare its report, and the minority a week in which to prepare its views. That has been found necessary adequately to present the issue. That was denied the committee in this case.

Mr. JOHNSTON of South Carolina. When we started discussion of this matter on February 15, in reality all the time since then we were discussing another bill, before this one came over from the House. Is not that true?

Mr. EASTLAND. That is true. This is a bill which has absolutely no legislative history. Title VI, which is the heart of it, saw the light of day on the 14th of March. There was only a semblance of hearings in the House, and only a semblance of hearings in the Senate. I venture to say that every member of the Committee on the Judiciary realizes that there were no adequate hearings on the bill.

Mr. JOHNSTON of South Carolina. Was not that one of the reasons why the Senator voted against tying himself to 2 days when the bill was referred to the committee?

Mr. EASTLAND. Yes. That was one of the reasons.

Mr. JOHNSTON of South Carolina. That was one of the reasons why I voted the way I did. I did not intend to tie myself down.

Is it not true that even after the bill got back to the Senate, because we had not had hearings to bring out what was in the bill, at the last moment we found that there was a great mistake in the bill? It was proposed to herd applicants in just before the election, which could cause a very dangerous situation. Did we not find that error in the bill at the last moment?

Mr. EASTLAND. Of course.

The bill came back to the Senate with a very unique report. I judge that not in this century, so far as I know, has such a bill come with such a report. Here it is:

By order of the Senate, agreed to March 24, 1960, H.R. 8601, to enforce constitutional rights, and for other purposes, was referred to the Committee on the Judiciary, with instruction to report back to the Senate not later than midnight, Tuesday, March 29, 1960.

The committee met in executive session on March 28 and 29, 1960, during which time testimony was received from the Attorney General of the United States, William P. Rogers; the Deputy Attorney General, Lawrence E. Walsh, and the special deputy attorney general of the State of Georgia, Charles J. Bloch.

The committee considered numerous amendments. The amendments agreed to by the committee are set forth in the bill as reported to the Senate.

That is a unique report occasioned by the time limitation imposed on the committee by the Senate.

Mr. JOHNSTON of South Carolina. Is it not true that of the amendments which the Judiciary Committee made to the bill, 13 out of 14 were adopted on the floor of the Senate?

Mr. RUSSELL. Fourteen out of fifteen.

Mr. JOHNSTON of South Carolina. Fourteen out of fifteen?

Mr. EASTLAND. Fourteen out of fifteen, as I recall.

Mr. JOHNSTON of South Carolina. One of the other amendments was agreed to in modified form.

Mr. EASTLAND. Yes.

Mr. JOHNSTON of South Carolina. That shows that the Judiciary Committee was doing a job on the bill in that short time, does it not?

Mr. EASTLAND. Yes; but I do not see how it is possible to have adequate discussion of far reaching constitutional proposals which will change our system of government, which place in receivership the election laws and the election machinery of a State, when a limitation of 5 minutes is placed on discussion on each side of such an amendment. That is unheard of in any legislative body in the world.

Mr. JOHNSTON of South Carolina. I agree with the Senator. I agree with him thoroughly. We will find that we will have a great many headaches as a result of the bill being enacted into law. Of course I am opposed to the Federal Government going into the State at all with respect to anything of this kind. However I agree with the Senator thoroughly that we were not given sufficient time in which to do the work that should have been done on the bill.

Mr. EASTLAND. I thank the Senator.

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

Mr. EASTLAND. I yield to the Senator from Georgia.

Mr. RUSSELL. I do not at this late hour intend to engage in any debate with my two very close and valued friends, the Senator from South Carolina and the Senator from Mississippi, about the wisdom of my vote to send the bill to committee. I am very proud of my vote to send the bill to committee, in the light of what the committee was able to do to it in the very brief time it had the bill before it. My vote was completely justified by the committee's action on the bill.

The point I wish to make—and I am sure the Senator from Mississippi will develop it—is that the bill before us today is the clearest manifestation that could be had of two things, which I shall enumerate. The first is that it shows the value of the committee system when that system is followed. The second is the fact that the committee system was purposely avoided in trying to enact the bill.

That is why the motion now pending before the Senate should prevail and the bill should be sent back to committee.

Originally, the bill as introduced contained seven titles. It was carefully scrutinized by the Committee on the Judiciary of the House and was cut down to five titles.

In the short time that the House bill was before Senate Committee on the Judiciary, the committee was able to cut out of the bill the worst features of approximately three of those remaining titles, and the Senate has approved that action of the Senate committee.

The part of the bill to which the Senator from Mississippi is addressing himself—the monstrous proposal to put into receivership the morals and intelligence of election officials of some southern counties—has never been subjected to the scrutiny of the committee as it should have been. All six points on which the committee had an opportunity to operate, whether it was in the House or in the Senate, have been trimmed down to where they are now only a faint shadow of their original selves.

The main proposition, which no committee has had an opportunity to examine carefully, is brought here in an attempt to legislate on the floor; any such attempt always gets us into trouble, particularly so when we are dealing with politically inspired and motivated legislation that is being rushed to passage in a presidential election year. Many of the proposals that have been advanced here were brought in 3 or 4 years ago in the so-called administration package civil rights program. Those that were examined by the committees are not in the bill today. I unhesitatingly say that if the pending motion carries, and if the committee has an opportunity to really put a microscope on the bill, we would not recognize the bill when it comes back to the Senate. I am also confident such a bill would be approved by the Senate. If we could return this montrous referee proposal to the committee, and if the committee had an opportunity to hear witnesses and to expose the proposal for what it is, it would revolt even its most ardent supporters. They would disown, disavow it. That is what happened to the other six titles of the bill.

Never has a measure cried out so loudly for committee examination. There never has been a time when the committee system—which is the heart of the legislative system—should be brought to bear upon a bill any more than in the case of this one. The bill affects the lives of millions of people. The campaigns and elections of thousands of State and local officials in vast areas of the country are involved; yet this proposal has never had the benefits of committee scrutiny. It is the result of legislating on the floor, Mr. President.

Even if this proposal might serve the political ends of a few candidates for President, we should be guided by the welfare of the millions of people affected. Above all, we should be guided by our interest in maintaining the Constitution of the United States. This bill flies in the face of the Constitution; it absolutely destroys due process so far as the local election official is concerned. The only due process he will have under the referee proposal is to be served with a petition. He cannot even get inside the courthouse to be heard when the so-called referee conducts a hearing involving him.

Mr. EASTLAND. It absolutely destroys due process. Yet it is said that it was feared the Judiciary Committee would sit on the bill. No one has said that the committee sat on title VI, which is the heart of the bill.

Mr. RUSSELL. A great many changes were made in the bill.

Mr. EASTLAND. The bill was introduced in the House on March 13, 3 weeks ago. That is the first time it saw the light of day.

Mr. RUSSELL. Since then it was rewritten three or four times on the floor of the House. The so-called O'Hara amendment was also added on the House floor. We had to get down on our knees and appeal to the Members of the Senate at the last moment to correct a monstrous injustice in the bill brought about by the adoption of that amendment on the floor. I am confident that no committee would have approved it.

As a result of the adoption of that amendment, it was necessary to appeal to Senators in person to prevent a situation in which a Negro—and in my State, according to the last census, there are more Negroes than in any other State—would have been given an advantage over any other person.

Mr. EASTLAND. The Negroes would have been put on a pedestal, above other people.

It is the judgment of the Senator from Mississippi that if the bill were sent to the Judiciary Committee, where adequate testimony could be taken on it from responsible people all over the country, Senators would not know it when it was reported back to the Senate, and the Senate would sustain the action of the committee.

Mr. President, the situation develops that when either a Federal district judge or a federally appointed voting referee accepts an application from one seeking to vote under State law and when, after being given an ex parte examination this applicant is declared to be qualified to vote it will be an abrogation by Federal law of the functions to be performed by State officers.

It puts a premium on perjury. It puts a premium on falsification. It denies the registrar the right to cross-examine the witnesses; to introduce testimony and to argue his case before the referee, so that the referee can reach an intelligent and a just decision.

There is no right or power to be found in the U.S. Constitution that would permit Federal officials to supplant State officials and exercise the power that these State officials are charged with performing under their own constitution. The enactment and application of the proposed law would destroy the republican form of government guaranteed by the Constitution to the several States.

The wrong which would be perpetuated by this voting referee plan is even more enormous when one considers that the courts have uniformly held that the responsibility for the maintenance of a republican form of government in the States is a duty and obligation of Congress, and one in which the courts have refused throughout the history of the Supreme Court of the United States to interfere with.

How many times have I heard the argument made on this floor that if a statute is of doubtful validity, Congress need not concern itself with it because the Supreme Court will straighten the matter out when it interprets what Congress intended when it enacted the statute? But if the question at issue involves what the court considers a political question, even though the statute emanates from an act of Congress

rather than a law or constitutional provision of the State itself, there is serious doubt as to whether this present court would interfere on that ground.

The contest of power between the reserved rights of the States and the Federal Government has been a continuing one insofar as Mississippi is concerned. The people of my State have never hesitated to exert to the utmost degree those sovereign powers that they are entitled to exert under the 10th amendment to the Constitution. I am proud of the fact that we have been in the forefront in this contest and that in the past as well as in the present, when the issues were justiciable, they have uniformly been resolved by the Federal courts in favor of the position of the State of Mississippi.

The first great contest arose under an interpretation of the 14th amendment. The leading case of all cases involving voting rights emanated from the State of Mississippi. This case, Williams against Mississippi, is reported in 170 U.S., page 213. The opinion, delivered by Mr. Justice McKenna for a unanimous court, posed this interrogatory:

The question presented is, are the provisions of the constitution of the State of Mississippi and the laws enacted to enforce the same repugnant to the 14th amendment of the Constitution of the United States? That amendment and its effect upon the rights of the colored race have been considered by this court in a number of cases, and it has been uniformly held that the Constitution of the United States, as amended, forbids, so far as civil and political rights are concerned, discriminations by the General Government, or by the States, against any citizen because of his race.

I must read at length exactly what was alleged by the plaintiff in error in the case. The opinion states:

Plaintiff in error says:

"Section 241 of the constitution of 1890 prescribes the qualifications for electors; that residence in the State for 2 years, 1 year in the precinct of the applicant, must be effected; that he is 21 years or over of age, having paid all taxes legally due of him for 2 years prior to 1st day of February of the year he offers to vote. Not having been convicted of theft, arson, rape, receiving money or goods under false pretenses, bigamy, embezzlement.

"Section 242 of the constitution provides the mode of registration. That the legislature shall provide by law for registration of all persons entitled to vote at any election, and that all persons offering to register shall take the oath; that they are not disqualified for voting by reason of any of the crimes named in the constitution of this State; that they will truly answer all questions propounded to them concerning their antecedents so far as they relate to the applicant's right to vote, and also as to their residence before their citizenship in the district in which such application for registration is made. The court readily sees the scheme. If the applicant swears, as he must do, that he is not disqualified by reason of the crimes specified, and that he has effected the required residence, what right has he to answer all questions as to his former residence? Section 244 of the constitution requires that the applicant for registration after January 1892 shall be able to read any section of the constitution, or he shall be able to understand the same (being any section of the organic law), or give a reasonable interpretation thereof. Now we submit that these provisions vest in the administrative officers the full power, under section 242, to ask all sorts of vain, impertinent questions, and it is with that officer to say whether the questions relate to the applicant's right to vote; this officer can reject whomsoever he chooses, and register whomsoever he chooses, for he is vested by the constitution with that power. Under section 244 it is left with the administrative officer to determine whether the applicant reads, understands, or interprets the section of the constitution designated. The officer is the sole judge of the examination of the applicant, and even though the applicant be qualified, it is left with the officer to so determine; and the said officer can refuse him registration."

Here is the same complaint we hear today. Here is the charge that is being made by the Civil Rights Commission on the basis of their half-baked information, but it is the duty of the courts not to accept opinions, surmises, guesses, and hearsay. Courts are properly concerned with shifting the conflicting charges and countercharges, the exaggerations and the imaginations, and determinating the truth. Justice McKenna continued:

It cannot be said, therefore, that the denial of the equal protection of the laws arises primarily from the constitution and laws of Mississippi, nor is there any sufficient allegation of an evil and discriminating administration of them. The only allegation is "by granting a discretion to the said officers, as mentioned in the several sections of the constitution of the State, and the statute of the State adopted under the said constitution, the use of which discretion can be and has been used by said officers in the said Washington County to the end here complained of, to wit, the abridgment of the elective franchise of the colored voters of Washington County."

Then, after reviewing and comparing the case of *Yick Wo* v. *Hopkins* (118 U.S. 356) the Justice concluded:

This comment is not applicable to the constitution of Mississippi and its statutes. They do not on their face discriminate between the races, and it has not been shown that their actual administration was evil, only that evil was possible under them.

One of the definitions in title VI to H.R. 8601 is in the very teeth of the final comment made here by Justice McKenna. It says:

The words "qualified under State law" shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

What this definition proposes to do is to make Federal district judges or federally appointed voting referees particeps criminis in administering a valid constitutional provision or statute in an unconstitutional or invalid manner. The judge or referee is not to perform that duty and function which the constitution or statute of the State says must be performed. He is to attempt to misapply the constitution or statute in the same manner that he thinks he has found some county voting registrar misapplying it. Mr. President, I state in all sincerity that this is a travesty of every governmental and judicial function that has ever been known in all history. In the name of orderly government, it would be far better for this Congress just to declare that, irrespective of race or color, the entire franchise processes of the State will be administered by the Federal Government, than it would to place the Federal judicial machinery in the position of having to violate the positive injunctions of the constitution and statutes of the State of Mississippi.

But I say further, Mr. President, that there is nothing wrong and nothing violative of the 15th amendment in the present manner in which the duly charged election officials of the State of Mississippi administer the provisions of the constitution and statutes of that State. Previously in this discourse I mentioned a recent case in which the State of Mississippi was involved in a contest with the Federal establishment, not on the 14th amendment, as was involved in Williams against Mississippi, but on the 15th amendment, and on the very section of the United States Code which implements that amendment, and upon which the Civil Rights Act of 1957 and the presently proposed Civil Rights Act of 1960 are based—section 1971(a) of the Civil Rights Act of 1957.

In addition to part III of the opinion, which I have previously read, I want now to read to the Senate the further text of the case of Darby against Daniel:

The case before us, with some of the facts, is thus stated in plaintiff's brief: "This is an action for a declaratory judgment and injunction brought by plaintiff on behalf of himself and others similarly situated. The gravamen of plaintiff's complaint is that he and other Negro citizens of Jefferson Davis County, Miss., have been denied the right to register in order that they might vote, solely because of their race and color, through the enforcement of a policy of discrimination against Negro voters, the enforcement of unconstitutional voting requirements, and the discriminatory administration of valid requirements. The plaintiff also seeks to enjoin enforcement of a State statute which makes it a crime, punishable by imprisonment for 1 year, for him to accept financial and legal assistance in the prosecution of this action and for his attorneys and others to give such assistance.

"The plaintiff in this case is an adult Negro citizen of the United States and of the State of Mississippi, residing in Prentiss, Jefferson Davis County, Miss., since 1947. He is not an idiot, an insane person, or an Indian who is not taxed, and is more than 21 years of age. His occupation is that of a minister of the Gospel. He has never been convicted of any crime enumerated in the Mississippi constitution as grounds for disqualification as a voter. He has paid his poll tax for the years 1956 and 1957. He was a duly qualified and registered voter of Jefferson Davis County prior to January 1, 1954, and exercised his right to vote in various elections held in the county between 1950 and 1955, having registered for the first time in the early part of 1950.

"In 1954 the Legislature of the State of Mississippi proposed that section 244 of the Mississippi constitution of 1890 be amended, and after the proposed amendment was ratified by a vote of the electorate, it became law in 1955." Defendant Daniel was and is circuit clerk and registrar of Jefferson Davis County and will be referred to as defendant unless otherwise noted.

The qualifications of electors are set forth in article 12 of the Mississippi constitution of 1890 as amended, titled "Franchise," and the article embraces sections 240–253, inclusive.

The sections of the article, other than section 244 which is challenged by plaintiff, grant the right to vote to inhabitants of the State, except idiots, insane persons and Indians not taxed, who are citizens of the United States, 21 years old or over, with certain residence requirements, who have duly registered as provided in the article and who have never been convicted of certain listed crimes and who have paid all poll taxes legally required of them before February 1 of the year in which they offer to vote. Section 249 provides: "And registration under the constitution and laws of this State by the proper officers of this State is hereby declared to be an essential and necessary qualification to vote at any and all elections."

Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without losing my right to the floor and without my remarks being counted as two speeches.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EASTLAND. Mr. President, I ask unanimous consent that further proceeding under the quorum call be dispensed with.

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

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

Section 244 of article 12, prior to the amendment attacked, was in these words:

"SEC. 244. On and after the 1st day of January A.D. 1892, every elector shall, in addition to the foregoing qualifications, be able to read any section of the constitution of this State; or he shall be able to understand the same when read to him, or give a reasonable interpretation thereof. A new registration shall be made before the next ensuing election after January 1 A.D. 1892."

Amended section 244 reads as follows in its pertinent portions:

"SEC. 244. Every elector shall, in addition to the foregoing qualifications, be able to read and write any section of the constitution of this State and give a reasonable interpretation thereof to the county registrar. He shall demonstrate to the county registrar a reasonable understanding of the duties and obligations of citizenship under a constitutional form of government."

Following the quoted language the amended section goes on to provide that a person applying to register shall make a sworn written application on a form to be prescribed by the State Board of Election Commissioners, and concludes with these words: "Any new or additional qualifications herein imposed shall not be required of any person who was a duly registered and qualified elector of this State prior to January 1, 1954. The legislature shall have the power to enforce the provisions of this section by appropriate legislation."

In February 1956 the Board of Supervisors of Jefferson Davis County ordered a new registration and due notice thereof was given by publication as required by law. This new registration was in line with the practice which had been followed in the county for a number of years, new registrations having been had in the years 1906, 1923, 1934, and 1949.

Defendant Daniel first became circuit clerk and registrar of Jefferson Davis County January 1, 1956. Without dispute and based upon his opinion that, since a new registration had been ordered and forms had been sent to him by the State election commissioners, he was so obligated, he began the practice of requiring all applicants, regardless of color, to take the examination provided by the amendment and covered by the questionnaire, which policy he pursued until about October 15, 1956. Plaintiff Darby first entered his office to register on June 29, 1956, and Defendant Daniel handed him the questionnaire to be completed pursuant to the custom then universally followed by him. No discussion was had between plaintiff and defendant. Plaintiff completed a part of the written examination and signed his name and left.

He had consulted the attorney now representing him and had written a letter of complaint to the President of the United States some weeks before that, which resulted in an investigation of Defendant Daniel being made by the Federal Bureau of Investigation. About October 1, 1956, Defendant Daniel received a letter from the U.S. attorney in Jackson, Miss., requesting that Daniel come to his office for conference. He responded to the request, going in company with the county attorney to the office of the U.S. attorney. There he was advised that the Department of Justice took the position that persons who, like Plaintiff Darby had been registered prior to January 1, 1954, were required to take only the oral examination covering the qualifications as set forth in the original section 244 of article 12 of the Mississippi constitution. Daniel left the U.S. attorney and went to the attorney general of Mississippi, who advised him in writing October 12, 1956, that no person registered prior to January 1, 1954, was required to take the written examination provided by the amendment.

About November 2, 1956, Plaintiff Darby again presented himself for registration and was given the oral examination. He did not pass in the opinion of Daniel and was so advised. Neither Darby nor Daniel remembered what section of the constitution Darby was called upon to interpret. About June 8, 1957, Darby came to Daniel's office again to register and was given the oral examination, and again failed to pass. A short time thereafter the FBI made a further examination into Daniel's operation of his office in which Daniel explained freely what happened.

On June 22, 1957, Plaintiff Darby again presented himself to Defendant Daniel, this time requesting that he be given the written examination as provided by the amendment. Without dispute, plaintiff followed this course on the advice of his attorney, whom he had first consulted more than a year before. He was given the written examination on the forms furnished to Daniel by the State officials, and again Daniel ruled that he had not qualified for registration.

Plaintiff Darby appealed, as provided by law, from the ruling of Defendant Daniel rejecting his written application (he had not appealed from the other three rejections), and the evidence shows that in so doing he was guided by one of his attorneys of record who had been employed by the NAACP legal defense and educational fund. His attorney filed with the registrar a writing bearing the heading "Appellant's Contentions." Plaintiff Darby and his attorney appeared at the office of Daniel on October 7, 1957, but there was no meeting of the commissioners scheduled or held at that time. Said plaintiff and his attorney were advised that the commissioners would meet at the registrar's office on the Tuesday after the third Monday in March 1958; Plaintiff Darby testified that Daniel told them of a March meeting. No provision is made for notice to persons desiring to present contests of the actions of the registrar and we do not find that Defendant Daniel made any agreement to give any notice to plaintiff or that such an agreement, if made, would have any legal effect. The appeal, apparently begun as a test of the provisions of the constitution and statutes here under attack, was not prosecuted, but this civil action was filed 4 days before the election commissioners met in Jefferson Davis County. The appeal is still pending before them.

Other portions of the testimony will be referred to under the discussion of the several points raised by the parties.

From the written contentions so filed on the appeal, the averments of the complaint and plaintiff's brief it appears that the attack on the Mississippi constitution and implementing statutes is based upon three grounds: that section 244 is unconstitutional and void on its face because it bestows upon the registrar "an uncontrolled discretion to determine who is able to interpret the constitution of * * * Mississippi," and who is able to demonstrate an understanding of the duties of citizenship; that the section is unconstitutional and void because the purpose of said provisions was to enable the registrars to "discriminate against otherwise qualified Negroes," and that said section is being administered "in such a manner as to discriminate against Rev. H. B. Darby and other Negroes otherwise qualified, solely because of their race and color."

The complaint specifies that the uncontrolled discretion referred to results from the amendment's vague and uncertain language "which fails to set up a standard of reasonableness capable of objective measurement." The precise prayer of the complaint asks an injunction "restraining defendant from enforcing those parts of said constitutional and statutory provisions which require an elector to give to defendant a reasonable interpretation of a provision of the constitution of the State of Mississippi and which require that an elector demonstrate to defendant a reasonable understanding of the duties and obligations of citizens under a constitutional form of government." The allegations of unconstitutionality are predicated upon the due process clause of the 14th amendment and the provisions of the 15th amendment.

I

(1) Any consideration of the constitutionality of the challenged portions of this amendment begins with the fundamental fact that, under our constitutional system, the qualification of voters is a matter committed exclusively to the States. The Supreme Court has spoken on the subject in language as clear as it is decisive. Witness, for example, what it said in *Pope* v. *Williams* (1904, 193 U.S. 621):

"The privilege to vote in any State is not given by the Federal Constitution, or by any of its amendments. It is not a privilege springing from citizenship of the United States (*Minor* v. *Happersett* (21 Wall. 162)). It may not be refused on account of race, color, or previous condition of servitude, but it does not follow from mere citizenship of the United States. In other words, the privilege to vote in a State is within the jurisdiction of the State itself, to be exercised as the State may direct, and upon such terms as to it may seem proper. * * * The State might provide that persons of foreign birth could vote without being naturalized, and, as stated by Mr. Chief Justice Waite in *Minor* v. *Happersett, supra*, such persons were allowed to vote in several of the States upon having declared their intentions to become citizens of the United States. Some States permit women to vote; others refuse them that privilege. A State, so far as the Federal Constitution is concerned, might provide by its own constitution and laws that none but native-born citizens should be permitted to vote, as the Federal Constitution does not confer the right of suffrage upon any one, and the conditions under which that right is to be exercised are matters for the States alone to prescribe, subject to the conditions of the Federal Constitution, already stated; * * * The question whether the conditions prescribed by the State might

be regarded by others as reasonable or unreasonable is not a Federal one. * * *

"* * * The right of a State to legislate upon the subject of the elective franchise as to it may seem good, subject to the conditions already stated, being, as we believe, unassailable, we think it plain that the statute in question violates no right protected by the Federal Constitution.

"The reasons which may have impelled the State legislature to enact the statute in question were matters entirely for its consideration, and this court has no concern with them" (pp. 632–634).

Like language was used by the Court in a case so much relied upon by plaintiffs, *Guinn et al.* v. *United States* (1915, 238 U.S. 347). In striking down the grandfather clause of the Oklahoma constitution the Court fixed its eyes upon certain principles as the lodestar which should furnish the light by which it would be guided:

"It (the United States) says State power to provide for suffrage is not disputed, although, of course, the authority of the 15th amendment and the limit on that power which it imposes is insisted upon. Hence, no assertion denying the right of a State to exert judgment and discretion in fixing the qualification of suffrage is advanced and no right to question the motive of the State in establishing a standard as to such subjects under such circumstances or to review or supervise the same is relied upon and no power to destroy an otherwise valid exertion of authority upon the mere ultimate operation of the power exercised is asserted. And applying these principles to the very case in hand the argument of the Government in substance says: No question is raised by the Government concerning the validity of the literacy test provided for in the amendment under consideration as an independent standard since the conclusion is plain that test rests on the exercise of State judgment and therefore cannot be here assailed either by disregarding the State's power to judge on the subject or by testing its motive in enacting the provision (pp. 359–360).

"Beyond doubt the amendment does not take away from the State governments in a general sense the power over suffrage which has belonged to those governments from the beginning and without the possession of which power the whole fabric upon which the division of State and national authority under the Constitution and the organization of both governments rest would be without support and both the authority of the Nation and the State would fall to the ground. In fact, the very command of the amendment recognizes the possession of the general power by the State, since the amendment seeks to regulate its exercise as to the particular subject with which it deals" (p. 362).

(2) Plaintiffs base their argument that the constitutional provisions under attack are void on their face chiefly upon four Supreme Court decisions: *Yick Wo* v. *Hopkins, Sheriff* (1866, 118 U.S. 356); *Guinn et al.* v. *United States,* supra; *Lane* v. *Wilson* (1939, 307 U.S. 268); and *Schnell et al.* v. *Davis* (1949, 336 U.S. 933). Analysis of those cases will reveal that they do not apply to the constitutional and statutory provisions before us.

Yick Wo involved the constitutionality, as administered by the board of supervisors, of an ordinance of the city and county of San Francisco making it unlawful to establish or maintain a laundry without the consent of the board of supervisors unless such laundry "be located in a building constructed either of brick or stone." Two Chinese nationals were convicted of violating the ordinances and the two cases wherein they sought habeas corpus were consolidated and decided by the Supreme Court. One was Yick Wo's petition for habeas corpus denied by the Supreme Court of California, and the other a like petition by Wo Lee, on practically identical facts, denied by the Circuit Court of the United States for the San Francisco District. The facts in both cases were without dispute.

Of the 320 laundries in San Francisco, about 310 were constructed of wood, and about 240 were owned and conducted by subjects of China. The board of supervisors followed the policy of issuing permits for laundry operation to all Caucasians, and of denying it to all Chinese even though in the cases presented to the court the premises of the Chinese had been inspected and approved by the fire wardens, the health officers, and other city officials. The Supreme Court of California thought that the statute was a proper exercise of the police power, and the U.S. circuit court, in the other case, thought otherwise, expressing the opinion that the ordinances as administered violated provisions of the 14th amendment and a treaty between the United States and China. In deference to the decision of the Supreme Court of California, however, and contrary to its own opinion, the circuit court discharged the habeas corpus writ as the Supreme Court of California had done.

The Supreme Court rejected the decision of the California court, holding that the ordinances "seem intended to confer, and actually do confer, not a discretion to be exercised upon a consideration of the circumstances of each case but a naked and arbitrary power to give or withhold consent, not only as to places, but as to persons. * * * The power given to them is not confided to their discretion in the legal sense of that term, but is granted to their mere will. It is purely arbitrary, and acknowledges neither guidance nor restraint" (pp. 366–367). The final conclusion of the Supreme Court is epitomized in graphic words copied in the margin. The quotation from the Supreme Court's opinion as applied to the facts there refutes the argument the case is called upon to furnish here. The case will be discussed further in our analysis of Schnell, infra. The constitution and statutes of Mississippi do not contain any license for the exercise of arbitrary power. Plaintiffs are entitled to relief here if they can show the discrimination which was admitted there.

Guinn brought in question the constitutionality of the grandfather clause inserted by amendment into the constitution of Oklahoma. The amendment established literacy tests, but exempted from such tests every person "who was, on January 1, 1866, or at any time prior thereto, entitled to vote under any form of government, or who at that time resided in some foreign nation." The exemption was made to apply also to the lineal descendants of such persons. The court held that the language of the Oklahoma amendment was indisputably aimed directly at the 15th amendment with palpable intent of destroying the effect of that amendment. Its course of reasoning ran thus:

The 15th amendment provided that "the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." The Oklahoma constitution fixed a date, January 1, 1866, as the crucial date, at which time the 15th amendment had not been passed and no Negro possessed the right of suffrage. By its terms, therefore, the exemption from the literacy test was denied to all Negroes, and was vouchsafed to all others. This being true, the Oklahoma amendment—and the Supreme Court so stated—could have no other purpose, under its very language, than to abridge the right of Negroes to vote by requiring them to pass a literacy test from which all non-Negroes were exempted.

Lane v. *Wilson* dealt with an act of the Oklahoma Legislature passed at a special session immediately following the invalidation of the constitutional amendment in Guinn, which act the Supreme Court decided was directed solely at a circumvention of the Guinn decision. The scope and reach of *Lane* v. *Wilson* can best be evaluated by quotations from the Supreme Court's opinion set forth in the margin.

It is clear that the Supreme Court thought that it was impossible to construe the Oklahoma legislation as having any efficacy which did not perpetuate as a favored class the white citizens, who were the only ones permitted to vote in 1914, and to lay a heavy burden on Negroes aspiring to register under discriminatory requirements which they were forced to meet only because they had been wrongfully excluded from voting right under the unconstitutional provisions of the grandfather clause.

The last case relied upon by plaintiffs is the per curiam opinion of the Supreme Court in Schnell et al. against Davis et al., which reads as follows:

"The judgment is affirmed" (*Lane* v. *Wilson* (307 U.S. 268); *Yick Wo.* v. *Hopkins* (118 U.S. 356)). Cf. *Williams* v. *Mississippi* (170 U.S. 213).

A three-judge District Court for the Southern District of Alabama had written a lengthy opinion and had based its decision upon a number of grounds including a finding that the Boswell amendment there under consideration "has, in fact, been arbitrarily used for the purpose of excluding Negro applicants for the franchise, while white applicants with comparable qualifications were being accepted." From the concluding words of the district court's opinion" it appears that the judgment it entered was to grant an injunction in favor of Schnell et al. The Supreme Court did nothing more than to affirm that judgment, not indicating which of the several grounds it adopted as the basis for the affirmance.

Viewed most favorably to the contentions of the plaintiffs here, it would be assumed that the Supreme Court decided that the Boswell amendment placed final and arbitrary powers in the hands of the board of registrars, which power the board had in fact exercised arbitrarily in favor of white applicants and against Negro applicants. As shown above, this was the ground common to Lane and Yick Wo, the two cases forming the predicate for the Supreme Court's action in Schnell.

It is important to note that the Supreme Court, after citing these two cases, directed a comparison with *Williams* v. *Mississippi* (1898, 170 U.S. 213). There, the literacy tests of the Mississippi Constitution of 1890 were upheld and, as demonstrated infra, the Court held categorically that the doctrine of Yick Wo did not apply. The clear meaning of the reference to the three cases by the Supreme Court was that in contrast with the valid requirements of the Mississippi Constitution, the Boswell amendment involved in Schnell came under the condemnation of the two cases wherein the Supreme Court had pointed out specifically that arbitrary power granted and discriminatorily used could not stand the test of constitutionality.

II

(1) In considering whether amended section 244 is unconstitutional on its face, it is important to bear in mind that plaintiffs concede that the voting provisions of the constitution of 1890 were valid. They could not, of course, do less because the Supreme Court of the United States specifically approved them in *Williams* v. *Mississippi* (1898, 170 U.S. 213).

Sections 241, 242, and 244 of the constitution of 1890 were attacked by motion (20 So. at 840) as being violative of the due process and equal protection clauses of the 14th amendment. The motion was grounded on the allegation that the constitutional

convention of Mississippi was composed of 134 members, of which only one was a Negro; "that the purpose and object of said constitution was to disqualify by reason of their color, race, and previous condition of servitude, 190,000 Negro voters." It was contended before the Supreme Court, 170 U.S. at page 215, that, "under prior laws, there were 190,000 colored voters and 69,000 white voters;" and "that sections 241, 242, and 244 of the constitution of this State are in conflict with the 14th amendment to the Constitution of the United States, because they vest in administrative officers the power to discriminate against citizens by reason of their color; and that the purpose of so investing such officers with such power was intended by the framers of the State constitution, to the end that it should be used to discriminate against the negroes of the State."

The contentions there made bear a marked resemblance to those now made before us. Responding to them the Supreme Court of Mississippi said (20 So. 840–841):

"At this point in the investigation it is sufficient to say that we have no power to investigate or decide upon the private, individual purposes of those who framed the constitution, the political or social complexion of the body of the convention. * * * We can deal only with the perfected work—the written constitution adopted and put in operation by the convention. * * *

"We find nothing in the constitutional provisions challenged by the appellant which discriminate against any citizen by reason of his race, color, or previous conditions of servitude. * * * All these provisions, if fairly and impartially administered, apply with equal force to the individual white and Negro citizen. It may be, and unquestionably is, true that, so administered, their operation will be to exclude from the exercise of the elective franchise a greater proportionate number of colored than of white persons. But this is not because one is white and the other is colored, but, because of superior advantages and circumstances possessed by the one race over the other, a greater number of the more fortunate race is found to possess the qualifications which the framers of the constitution deemed essential for the exercise of the elective franchise."

Affirming the decision of the Mississippi Supreme Court in Williams, the Supreme Court of the United States considered at length *Yick Wo* v. *Hopkins, supra,* more than half of the opinion being devoted to a study of and quotations from that case. The Court quoted what it had said in Yick Wo, which quotation—set forth supra—is the portion of Yick Wo so vigorously urged by plaintiffs before us. But concerning said quoted language the Supreme Court of the United States, after stating "We do not think that this case is brought within the ruling in *Yick Wo* v. *Hopkins,*" (170 U.S. at 225), said:

"This comment is not applicable to the constitution of Mississippi and its statutes. They do not on their face discriminate between the races, and it has not been shown that their actual administration was evil, only that evil was possible under them."

The Court, in that decision, quoted and discussed all of the important provisions of the Mississippi constitution governing the right to vote, and also quoted the contention there made that the constitution vested in the registrar "the full power * * * to ask all sorts of vain, impertinent questions, and * * * reject whomsoever he chooses, and register whomsoever he chooses, for he is vested by the constitution with that power. Under section 244 it is left with the administrative officer to determine whether the applicant reads, understands, or interprets the section of the constitution designated. The officer is the sole judge of the examination of the applicant, and even though the applicant be qualified, it is left with the officer to so determine; and the said officer can refuse him registration."

It is of determinant significance that the Supreme Court in Williams rejected all of those contentions and upheld the constitutionality of section 244 as originally written.

(2) It is pertinent to observe at this point that plaintiffs, having thus conceded the validity of the original 244, make the identical argument that amended 244 is unconstitutional because (a) by its language is so vague and indefinite as to furnish no ascertainable standard of action, and (b) it invests the registrar with arbitrary and uncontrolled powers.

(a) The obvious answer to the ground first stated is that the words used in amended section 244 are the identical terms used in the 1890 constitution—"read," "reasonable," "interpret," "understand." Every one of those words was used in the original section which plaintiffs find no difficulty in comprehending. The language above quoted shows that the identical contention was made by Williams in his appeal and was rejected by the Supreme Court. It is further clear that the responsible State official was invested with exactly the same powers under the constitution of 1890 that he has under the amended section.

It is plain that what plaintiffs complain of is, not that the words used in the amendment are vague and indefinite, but that the literacy test imposed by the amendment is slightly more onerous and exacting than that of the original. They complain that the amendment requires an applicant for registration to read and write a section of the constitution. Certainly the original requirement was more rigorous at the time of its enactment than was the amendment when it was adopted.

The constitution of 1890 was passed when Negroes had just emerged from complete illiteracy—cf. the Supreme Court's language in *Brown* v. *Board of Education* (1954, 347 U.S. 483, 490) "Education of Negroes was almost nonexistent and practically all of the race were illiterate"—and when both Negroes and whites had passed through two decades of the tragedy of Reconstruction when efforts at education were close to the vanishing point. After six decades of an increasingly competent educational system it seems moderate indeed for the electorate to lay upon itself the obligation of being able to read and write the basic law of the Commonwealth. Understanding and interpretation formed a part of the original section 244 and they seem all the more proper in this time of general enlightenment.

The same can well be said of the sentence added by the amendment requiring an applicant to demonstrate "a reasonable understanding of the duties and obligations of citizenship under a constitutional form of government." In assaying the reasonableness of such requirements it is well to note that the provision of the Oklahoma constitution, which the Supreme Court found unexceptionable in *Guinn, supra* (238 U.S. at 357) required the applicant to both read and write, and that the Court rejected the grandfather clause only because it was not able to discover any reason for its arbitrary exemption of those possessing certain qualifications on a specified date except one which flew in the fact of the 15th amendment (238 U.S. at pp. 364–365). Such is not the case here. At a time when alien ideologies are making a steady and insidious assault upon constitutional government everywhere, it is nothing but reasonable that the States should be tightening their belts and seeking to assure that those carrying the responsibility of suffrage understand and appreciate the form and genius of the Government of this country and of the States.

(b) Literacy tests for prospective voters have been in effect in this country for a century, and no case has been brought before us holding that the people of a State have placed themselves under too heavy a burden in setting the standards which will earn the right to vote, and none condemning a literacy test as such. In *Lassiter* v. *Taylor* (U.S. D.C. E.D. N. Car., 1957, 152 F. Supp. 285, 297–298), attention is called to the fact that 19 States, only 7 of which are Southern States, prescribe literacy tests, and those States and the laws prescribing the literacy tests are listed. Plaintiffs concede that it is proper for Mississippi to enact reasonable literacy requirements for voting. That concession is bound to include the unquestioned concept that it is the States which have plenary and exclusive power to determine what is reasonable. See the language of the Supreme Court opinions in part I supra. Plaintiff's idea that a literacy test may properly embrace one facet but not two (or two facets but not three) is without sanction of either law or reason. In *Trudeau* v. *Barnes* (65 F. 2d 563), certiorari denied 290 U.S. 659, the Fifth Circuit Court of Appeals approved Louisiana constitutional requirements embracing both reading and interpreting its constitution and that of the United States.

(c) To attack the language of amended section 244 as being too vague and indefinite is to ignore a long and unbroken line of decisions approving legislative enactments whose phraseologies are far more nebulous and difficult of ascertainment than the relatively simple terms before us. A few recent examples will suffice. The Supreme Court has recently "approved a Federal and a State statute which made criminal the dissemination of literature which was 'obscene, lewd, lascivious, filthy, indecent,'" although it was necessarily left to 12 laymen constituting the jury to determine whether such dissemination had a "substantial tendency to deprave or corrupt the readers by inciting lascivious thoughts or by arousing lustful desires." The Labor Board is given power to examine protracted negotiations between representatives of employers and employees and "to determine therefrom whether there has been 'bargaining in good faith.'"

In *Screws* v. *United States* (325 U.S. 91), the Supreme Court upheld a criminal statute making it unlawful to deprive any inhabitant of a State "of any rights, privileges, or immunities secured or protected by the Constitution and laws of the United States * * * by reason of his color, or race." Those rights privileges, and immunities are legion and are being defined and expanded every day. The Court justified its decision by holding that conviction under the statute can ensue only when the jurors find, under proper instructions, that the rights violated are rights belonging to Federal citizenship as distinguished from those inherent in State citizenship. It should be remembered also that every juror in a criminal case is forced to apply his common sense in determining what is or is not a "reasonable" doubt; and jurors trying personal injury suits are required to fashion largely out of their own experience standards of "reasonable" care and "reasonable" prudence upon which to base their verdicts.

(3) To charge that the discretion vested in the registrar is arbitrary and uncontrolled is to ignore the procedures provided by Mississippi law. Administrative appeal to a board selected by the State board of election commissioners is given de novo and, on such appeal, the judgment of the registrar is so highly tentative and lacking in finality that it is not even prima facie correct. In every instance his judgment must be one based upon reason, and absolute right of appeal to the courts is also provided. This administrative machinery has the explicit approval not only of *Williams, supra,* but of *Peay et al.* v. *Cox, Registrar* (5 Cir., 1951), certiorari denied 342 U.S. 896.

It would be hard to conceive of constitutional provisions which safeguard the rights of applicants for suffrage as well as do the ones under attack. A permanent record is made on forms prepared by State officers and applying uniformly to all applicants, so that anything smacking of discrimination can easily be checked by examination of the public records. This provides a more certain insurance against discrimination than the requirements of original section 244—providing for oral examination—which bears the stamp of plaintiffs' approval. Right of appeal is given not only to rejected applicants but to any member of the public who may think that any applicant has been too generously dealt with.

(4) (a) In an attempt to prove that the "purpose," i.e., motive, of the people of Mississippi in amending section 244 of the Mississippi constitution was an evil one, plaintiffs sought to introduce in evidence six photostatic copies of newspaper articles expressing the opinion that the object of the constitutional amendment was "aimed at stemming the tide of Negro voters that is growing up in the State." The amendment was voted upon at an election for various officials, State and Federal. No effort was made to prove that the copies offered were in fact copies of newspapers published at the time and no proof was offered to show that the statements attributed to various individuals were made, or that the opinions were actually expressed.

These articles were permitted to be inserted in the record for whatever value they might have toward proving what the plaintiffs called climate. No statements were attributed to State officers and the articles purported to express only sentiments which were alleged to be entertained by the private citizens to whom they were attributed. The articles possessed little, if any, probative value.

(b) Plaintiffs also obtained by subpena copy of an issue of the Clarion Ledger, a newspaper published in Jackson, Miss., containing an article by Charles M. Hills in which the number of Negroes supposedly qualified and registered in various counties of the State was discussed. The article showed that Jefferson Davis County had, in 1954, 1,221 registered Negro voters. Hills was offered by plaintiff as a witness and asked as to the correctness of his figures. He replied that he had no personal knowledge at all and no information except what he had obtained, as the article set forth, from the Mississippi Citizens' Council. The figures could have been nothing but an estimate, as the registration records omit entirely any reference to the race of a registrant; but the article was received as a part of the record for whatever probative value it might have.

If the article should be accepted as dependable and as competent proof, some interesting comparisons might be made. In Jefferson Davis County 926 electors cast their ballots in favor of the constitutional amendment and 278 against it. Plaintiffs' newspaper article showed that 54 Negroes were registered voters in Itawamba County; in voting on the amendment, 228 citizens of that county voted for the amendment and 1,248 voted against it. The article reflected that 4 Negroes were registered in Pontotoc County; the vote in that county was 339 for the amendment and 1,371 against. Speculation engendered by the article would lead to the conclusion that the adoption of the amendment by well over a 2 to 1 majority statewide did not follow at all the pattern of race registration which plaintiffs attempt to ascribe to it.

(c) Plaintiffs, pursuing further the argument that the "purpose" of amending section 244 was to fashion tools the better to discriminate against Negro applicants, list a number of statutes passed by the Mississippi Legislature in 1954, 1955 and 1956 dealing with the public schools and with other aspects of what plaintiffs term "the State's declared policy of preserving segregation." If we should be tempted to accept "guilt by association" as a proper basis for condemning State action, it would not apply here, because the attack plaintiffs make here is basically upon a constitutional amendment enacted by vote of the people themselves. It was submitted at a time when only one other amendment was on the ballot and that had to do with a technical point applying to corporate procedures. The argument, like those which precede it, is lacking in force.

(5) (a) Having failed to produce any tangible proof to sustain this position, plaintiffs finally call upon us to supply the lack by judicial notice. In other words, we are importuned to rule without proof that, on its face or by reason of its unrevealed sinister "purpose," the constitutional amendment is void. The showing before us wholly fails to warrant serious consideration of so condemning a whole people, which is what we would have to do if we accepted plaintiffs' argument. Neither proof nor judicial knowledge tend to sustain plaintiffs' position.

Even if we had such knowledge by some sort of occult power of divination, we would not have the competence to do what plaintiffs advocate. No case is cited as a precedent for such action, and no proof is offered to sustain it. If we should imagine ourselves possessed of such omniscience and omnipotence, we would find ourselves confronted by a vast array of authority which forbids questioning the motives even of a legislature, certainly of a sovereign people.

(b) Commenting upon the immunity of State legislators from having their motives scrutinized, Judge Learned Hand exclaims: "But of all conceivable issues this would be the most completely political, and no court would undertake it." He also quotes Chief Justice Taney's statement in "The License cases," 5 How. 504, 583: "Upon that question the object and motive of the States are of no importance, and cannot influence the decision. It is a question of power." Mr. Justice Douglas, in *Fernandez* v. *Wiener* (326 U.S. 340), quoted the language of Chief Justice Stone in *Sonzinsky* v. *United States* (1937, 300 U.S. 506, 513): "Inquiry into the hidden motives which may move Congress to exercise a power constitutionally conferred upon it is beyond the competency of the courts." Upon a principle so unquestionable it is sufficient to add to the cases already cited a list of more recent decisions affirming it.

We hold, therefore, that plaintiffs have wholly failed to establish that the amendment to section 244 of the Mississippi constitution of 1890 is void on its face or because it was the product of base motives. We hold, on the other hand, that said amendment and the statutes passed in connection with it are valid on their face and in fact, and are a legitimate exercise by the State of its sovereign right to prescribe and enforce the qualification of voters.

This Senate is now attempting to indict and convict the State of Mississippi in the face of the repeated and uniform Court pronouncements that neither the constitution and statutes of the State nor their administration by the duly constituted officials of the State are in any manner, shape, form, or degree violative of either the 14th or 15th amendments to the U.S. Constitution. Why, Mr. President, it is a tragic day in our Nation when a high official in the Department of Justice testifying before a congressional committee in order to justify the appropriation for his useless Department—and I speak now of those officials in the so-called Civil Rights Division of the Department of Justice—would make openly and publicly such statements as these:

Since the Congress of the United States passed this act in September 1957 there has been a lot of legislation put on the books of the States deliberately designed to thwart and frustrate enforcement. This does not appear from the face of the statute. It is only by research and by the application of that statute that you can say it was designed to frustrate the intent of the Federal Congress.

Of course, the more ingenious the State action in this field is, the more difficult and the more ingenious has to be the counter moves of the Federal Government in order to try to vindicate the voting rights of the individual in accordance with the Federal statute. That is what I think makes this far more complex than it would appear from just a superficial glance at it.

This man was appearing to ask for tax money that came from the State of Mississippi. He would bite the hand that feeds him. What he is saying is in the teeth of what the courts have said from time immemorial should not be questioned by the Federal Government, and that is the motives of those individuals serving in the legislative branches of State governments who are performing their constitutional function in enacting the laws they think are best suited for the people of their sovereign State. What does he want? To send Federal officials down to the Legislature of the State of Mississippi to enact the laws that these Federal officials think should go on the statute books of that State? Mr. President, we in Mississippi never felt that we were playing any game with the Department of Justice. The courts are open. The Civil Rights Division has access to them. Why can they not make their charges in the proper forum? Why make them to Congress? The laws were then on the books, and not one action has been brought by the Attorney General against any official in my State.

But let me pursue this charge that the States are deliberately attempting to design legislation to thwart and frustrate enforcement and that this does not appear from the face of the statute.

In the case of *Cohen* v. *Beneficial Loan Corp.* (337 U.S. 541), Mr. Justice Jackson, in discussing the constitutionality of a State statute, said:

In considering specific objections to the way in which the State has exercised its power in this particular statute, it should be unnecessary to say that we are concerned only with objections which go to constitutionality. The wisdom and the policy of this and similar statutes are involved in controversies amply debated in legal literature but not for us to judge, and hence not for us to remark upon. The Federal Constitution does not invalid State legislation because it fails to embody the highest wisdom or provide the best conceivable remedies. Nor can legislation be set aside by courts because of the fact, if it be such, that it has been sponsored and promoted by those who advantage from it. In dealing with such difficult and controversial subjects, only experience will verify or disclose weaknesses and defects of any policy and teach lessons which may be applied by amendment.

And then Judge Cameron pointed out a whole series of cases in his opinion. The indictment that he made against

Darby could just as easily be applied to this witness before the House Subcommittee on Appropriations from the Department of Justice. Having failed to produce any tangible proof to sustain his position, the Department calls upon Congress to supply the lack by conclusive presumption. Congress is asked to rule without proof that on its face and by reason of its unrevealed sinister purpose the constitution and statutes of Mississippi and their application by duly appointed State officials are contrary to the 15th amendment. I say that the showing before the Senate wholly fails to warrant serious consideration of so condemning a whole people, which is what the Senate would have to do if it accepted the indictment of this official of the Department of Justice and the legislation which is proposed in title VI. Neither proof nor judicial knowledge tend to sustain this position and, as Judge Cameron further said:

> Even if we had such knowledge by some sort of occult power of divination, we would not have the competence to do what plaintiffs advocate. No case is cited as a precedent for such action, and no proof is offered to sustain it. If we should imagine ourselves possessed by such omniscience and omnipotence, we would find ourselves confronted by a vast array of authority which forbids questioning the motives even of a legislature, certainly of a sovereign people.

Then he quoted further, sustaining the position which I have previously set forth in the Cohen case, saying:

> Commenting upon the immunity of State legislators from having their motives scrutinized, Judge Learned Hand exclaims: "But of all conceivable issues this would be the most completely political, and no court would undertake it." He also quotes Chief Justice Taney's statement in *The License* cases (5 How. 504, 583): "Upon that question the object and motive of the States are of no importance and cannot influence the decision. It is a question of power." Mr. Justice Douglas, in *Fernandez* v. *Wiener* (326 U.S. 340), quoted the language of Chief Justice Stone in *Sonzinsky* v. *United States* (1937, 300 U.S. 506, 513): "Inquiry into the hidden motives which may move Congress to exercise a power constitutionally conferred upon it is beyond the competency of the courts." Upon a principle so unquestionable it is sufficient to add to the cases already cited a list of more recent decisions affirming it.

Mr. President, it is an insult to the people of my State for the Department of Justice and for proponents of civil rights legislation to now so question the motives of our earnest and conscientious State legislators and the executive officials of the State, from the top to the lowest echelon of county administration.

Mr. President, the chaos and confusion that would be compounded by the enactment and an attempt to apply the voting referee plan among the several States are beyond comprehension. The conflicting laws are so great that the appointed voting referee would be placed in the position of invalidating the constitution and some of the statutes of the State of Mississippi that have been in existence for generations. State election officials would be in such a predicament that nothing they could do would be right. They would either have to go to jail under the Federal law or else they would have to go to jail under the State law. Whichever way they moved, there would be only one certain result—they would wind up in jail. Let me now read section 249 of the constitution of the State of Mississippi:

> No one shall be allowed to vote for members of the legislature or other officers who has not been duly registered under the constitution and laws of this State, by an officer of this State, legally authorized to register the voters thereof. And registration under the constitution and laws of this State, by the proper officers of this State, is hereby declared to be an essential and necessary qualification to vote at any and all elections.

Could anything be clearer or more explicit than the language "No one shall be allowed to vote who has not been duly registered under the constitution and laws of this State, by an officer of this State, legally authorized to register the voters thereof." The applicant to the referee is going to have a certificate in his pocket. The certificate will say "I can vote" to any person in whose face he sticks the certificate. Then the mighty contempt power of the Federal district court will come into play. The State of Mississippi will tell that official that, unless the applicant has been registered by the proper officials of the State, he will not be qualified to vote. Are these referees and these Federal district judges to become ex officio officials under the constitution of the State of Mississippi? I deny that this is possible, Mr. President, either from the standpoint of law or from that of common sense.

Now let me read the following section of the Mississippi constitution. Section 250 provides:

> All qualified electors, and no others, shall be eligible to office, except as otherwise provided in this constitution.

We may ignore the words "except as otherwise provided in this constitution," Mr. President, insofar as anyone who would have one of these voting certificates in his hand would be concerned, they would not be included in this class. Neither would the holders of these voting certificates be qualified electors under the constitution of Mississippi, if section 249 has any meaning and effect.

Now let me read section 251 of the Mississippi constitution:

> Electors shall not be registered within 4 months next before any election at which they may offer to vote; but appeals may be heard and determined and revision take place at any time prior to the election; and no person who, in respect to age and residence, would become entitled to vote within the said 4 months shall be excluded from registration on account of his want of qualification at the time of registration.

Every person who votes in Mississippi must be registered, Mr. President, 4 months next before any election at which he may offer to vote.

Mr. President, on page 19, in line 18, of H.R. 8601, this language will be found:

> Applications pursuant to this subsection shall be determined expeditiously. In the case of any application filed twenty or more days prior to an election which is undetermined by the time of such election, the court shall issue an order authorizing the applicant to vote provisionally. In the case of an application filed within twenty days prior to an election, the court, in its discretion, may make such an order. In either case the order shall make appropriate provision for the impounding of the applicant's ballot pending determination of the application.

Yesterday, that provision was modified by striking out the period after the word "provisionally," and inserting a colon and the words "*Provided, however,* That such applicant shall be qualified to vote under State laws." Although I appreciate what was attempted to be achieved by the insertion of those words, I believe the courts must in the future determine exactly what the language means. So for the present I shall overlook it, and shall continue with my explanation.

How can this section of the title be justified, in view of the section of the Mississippi constitution, that I have just read, regarding the qualifications of voters under the law of Mississippi? Why is it unreasonable to require any and all people who seek the privilege of the franchise to qualify to vote within the reasonable period of time prescribed by this provision—4 months next before an election? The truth of the business is that if Congress wished to follow the only reasonable and sensible course in drafting legislation of a character such as that I am now discussing, we would not need one legislative act. There would have to be either 50 separate legislative acts or one act with 50 separate sections—one to apply to each of the several States of this Union. It is impossible to draft legislation to fit that of the 50 sovereign States without cutting the cloth in accordance with the laws of the particular States involved. This is particularly true when we say that the words, "qualified under State law" mean qualified according to the laws of the State. But, we must write each and every one of those qualification laws into the substance of the bill, and we must tailor the bill to fit the form of the laws of each State. Even if constitutional questions were not involved, these practical considerations point out with clarity the folly of attempting to write in one short title a Federal statute, when uniformity of application is an utter impossibility because of the diversity of the laws of the States to which it will apply.

Mr. President, this bill provides for an ex parte hearing when one who seeks the right to vote applies to a Federal voting referee. But if an applicant in an ex parte hearing has a right, somebody has committed a wrong. It is inherent in our society that a person accused of a wrongful act should have the unquestioned right to be confronted by his accuser, to cross-examine the accuser and any other witnesses against him, and to present evidence in his own behalf. The ex parte procedure before a voting referee would deny to the defendant registrar—and he would be a defendant just as certainly as he was a defendant in the original action brought by the Attorney General—his day in court. That defect cannot be cured by providing for subsequent proceedings at

which he would be permitted to file exceptions to matters of fact or law with which he might disagree, in the report filed with the court by the referee who declared the applicant to be a qualified voter.

In addition to denying to the registrar a day in court, under the theory of the voting-referee proposal, as explained by Deputy Attorney General Walsh, an even more serious matter than due process of law is involved. As I understand Judge Walsh's theory, the referee procedure is justified because in connection with the original decree and injunction entered in the adversary proceeding, a canopy for the procedure would have been erected when the court found that a pattern or practice of discrimination existed. This canopy stretches to the horizon. It covers everything going and everything coming. It reaches either forward or backward—I do not know which—and inferentially attempts to make the proceeding before the referee a part of a lawsuit in which a decree might have been entered days, weeks, months, or even years in the past.

The defendant to this original action is not only estopped from defending himself as against this subsequent applicant, but, in my judgment and under Judge Walsh's theory, when either the court or the referee disagrees with the action of the registrar and finds that this registrar deprived or denied the applicant the opportunity to register to vote subsequent to the finding by the court that a pattern or practice existed, the registrar would then and there be in contempt of the injunction that was issued as a part of the original decree prohibiting him from discriminating against any potential Negro registrant on the basis of his race or color. If such an injunction was issued and the applicant was deprived or denied of the opportunity to register or to vote because he was a Negro, would this not clearly be a violation of the original injunction and, if so, could not the county registrar be then and there imprisoned up to 45 days without the benefit of a trial by jury?

The same would be true in a situation where the county registrar had given to the applicant an examination and found him not qualified to vote. Remember, the applicant came to the voting referee with a presumption in his pocket. That supplied the necessary element of proof that the reason the county registrar found him not qualified was because he was a Negro. Then, when the referee administered the examination and found the applicant qualified under State law, this contrary finding would immediately place the county registrar in the position of being in contempt of court for a violation of the injunction issued under the original decree.

Mr. President, if 100 applicants went to the referee and were found qualified contrary to the finding by the county registrar, the contempt sentences would pile up to the point where they could amount to life imprisonment, each one being taken separately. To me, this would create a fantastic situation, but if the original injunction against the registrar is of the nature that I describe, how can you arrive at any other conclusion under the language of title VI?

Mr. President, again I return to the matter of due process: the right of the defendant registrar to appear before the referee and defend himself, confront and cross-examine his accuser, and offer evidence on his own behalf. Mr. Chief Justice Hughes delivered the opinion in the case of *Morgan* v. *U.S.* (304 U.S. 1). It is elemental that the duty of courts to follow procedural safeguards is much greater than that of the administrative agencies involved in this case. Mr. Justice Hughes says:

> The first question goes to the very foundation of the action of administrative agencies entrusted by the Congress with broad control over activities which in their detail cannot be dealt with directly by the legislature. The vast expansion of this field of administrative regulation in response to the pressure of social needs is made possible under our system by adherence to the basic principles that the legislature shall appropriately determine the standards of administrative action and that in administrative proceedings of a quasi-judicial character the liberty and property of the citizen shall be protected by the rudimentary requirements of fair play. These demand "a fair and open hearing," essential alike to the legal validity of the administrative regulation and to the maintenance of public confidence in the value and soundness of this important governmental process. Such a hearing has been described as an "inexorable safeguard." And in equipping the Secretary of Agriculture with extraordinary powers under the Packers and Stockyards Act, the Congress explicitly recognized and emphasized this requirement by making his action depend upon a "full hearing."

The Court said further of this ex parte finding of the Secretary of Agriculture:

> Findings were prepared in the Bureau of Animal Industry, Department of Agriculture, whose representatives had conducted the proceedings for the Government, and were submitted to the Secretary, who signed them, with a few changes in the rates, when his order was made on June 14, 1933.
>
> No opportunity was afforded to appellants for the examination of the findings thus prepared in the Bureau of Animal Industry until they were served with the order.

And again, at a later point, the Court graphically describes the due process of law to which a defendant registrar should be entitled. It said:

> Congress, in requiring a "full hearing," had regard to judicial standards—not in any technical sense but with respect to those fundamental requirements of fairness which are of the essence of due process in a proceeding of a judicial nature. If in an equity cause, a special master or the trial judge permitted the plaintiff's attorney to formulate the findings upon the evidence, conferred ex parte with the plaintiff's attorney regarding them, and then adopted his proposals without affording an opportunity to his opponent to know their contents and present objections, there would be no hesitation in setting aside the report or decree as having been made without a fair hearing. The requirements of fairness are not exhausted in the taking or consideration of evidence but extend to the concluding parts of the procedure as well as to the beginning and intermediate steps.

Nothing could be clearer than this language to establish that the ex parte proceeding proposed by title VI is beyond the power of Congress to enact. A special master in equity proceedings is identical with a referee proposed to be established by the amendment. Serving the report of ex parte proceedings on the defendants and permitting them to file exceptions can never cure the fatal defect of a lack of a full and fair hearing—the opportunity to cross-examine and to present evidence.

On the right of a defendant to confrontation and cross-examination of his accuser, the case of *Greene* v. *McElroy* (360 U.S. 474) decided June 29, 1959, holds:

> Certain principles have remained relatively immutable in our jurisprudence. One of these is that where governmental action seriously injures an individual, and the reasonableness of the action depends on fact-findings, the evidence used to prove the Government's case must be disclosed to the individual so that he has an opportunity to show that it is untrue. While this is important in the case of documentary evidence, it is even more important where the evidence consists of the testimony of individuals whose memory might be faulty or who, in fact, might be perjurers or persons motivated by malice, vindictiveness, intolerance, prejudice, or jealousy. We have formalized these protections in the requirements of confrontation and cross-examination. They have ancient roots. They find expression in the sixth amendment which provides that in all criminal cases the accused shall enjoy the right "to be confronted with the witnesses against him."
>
> This Court has been zealous to protect these rights from erosion. It has spoken out not only in criminal cases, e.g., *Mattox* v. *United States* (156 U.S. 237), 242–244; *Kirby* v. *United States* (174 U.S. 47); *Motes* v. *United States* (178 U.S. 458, 474); *In re Oliver* (333 U.S. 257, 273), but also in all types of cases where administrative and regulatory actions were under scrutiny. E.g., *Southern R. Co.* v. *Virginia* (290 U.S. 190); *Ohio Bell Telephone Co.* v. *Public Utilities Commission* (301 U.S. 292); *Morgan* v. *United States* (304 U.S. 1, 19); *Carter* v. *Kubler* (320 U.S. 243); *Reilly* v. *Pinkus* (338 U.S. 269). Nor, as it has been pointed out, has Congress ignored these fundamental requirements in enacting regulatory legislation. *Joint Anti-Fascist Committee* v. *McGrath* (341 U.S. 168–169 (concurring opinion)).
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> Professor Wigmore, commenting on the importance of cross-examination, states in his treaties, 5 Wigmore on Evidence (3d ed., 1940), section 1367:
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> "For two centuries past, the policy of the Anglo-American system of evidence has been to regard the necessity of testing by cross-examination as a vital feature of the law. The belief that no safeguard for testing the value of human statements is comparable to that furnished by cross-examination, and the conviction that no statement (unless by special exception) should be used as testimony until it has been probed and sublimated by that test, has found increasing strength in lengthening experience."

Mr. President, this proposed procedure under title VI to H.R. 8601 is simply unconstitutional in the whole cloth. From beginning to end it violates every concept of proper judicial processes, both substantially and procedurally.

Mr. President, for the reasons already stated, I think the motion I have made to recommit the bill should certainly be agreed to.

The voting rights provision, the very heart of the bill, saw the light of day, as

I have stated, on the 14th of March, about 3 weeks ago. There was no semblance of hearings on the matter in the House. I say "no semblance of hearings," because the only persons heard were the Attorney General and Judge Walsh. Mr. Charles Bloch, a great constitutional lawyer, happened to be in the city of Washington, D.C., on other business, and was called before the committee without preparation.

The bill passed the House without committee consideration to this matter, without hearing except for the three witnesses. The bill came to the Senate, and in the Senate we had a "gag" rule. The bill was sent to the committee on Thursday night, to be reported back 5 days later, on Tuesday night.

Mr. President, the committee could not meet on Friday, because we had no bill. We did not get the bill from the Government Printing Office until Friday afternoon. The staff worked all night. It was not practicable to hold a meeting on Saturday. We could not commence meeting until Monday. We met for 2 days.

The Governor and the Attorney General of Mississippi wanted to appear to testify. We had time to have only three witnesses: the Attorney General; the Deputy Attorney General, Judge Walsh; and Mr. Bloch. Mr. Bloch did not have time to finish his testimony. He discussed only part of title VI. He discussed only the provisions relating to the judge acting when a suit is instituted.

We were crowded for time on a far-reaching proposal such as this, so we had to limit debate on each amendment to 5 minutes on each side.

Mr. STENNIS. Mr. President, will the Senator yield at that point?

The PRESIDING OFFICER (Mr. McGEE in the chair). Does the Senator from Mississippi yield?

Mr. EASTLAND. I yield.

Mr. STENNIS. Is the Senator saying that the committee was limited to 5 minutes debate on amendments?

Mr. EASTLAND. That is correct.

Mr. STENNIS. In order to have the amendments considered?

Mr. EASTLAND. That is correct.

Mr. STENNIS. How many amendments did the committee have to consider?

Mr. EASTLAND. As I remember, there were some 36. We considered 36 amendments.

Mr. STENNIS. With 5 minutes to each side?

Mr. EASTLAND. I will say that there were amendments we could not consider. On the 36 amendments we ran out of time, and we could not allow more time. We simply had to offer amendments and vote. We did not have time to provide the Senate with a majority report or minority views from the committee. The report which was filed is very unique in the annals of the Senate. Inasmuch as it merely stated the action taken by the committee in complying with the mandate of the Senate.

Mr. JOHNSTON of South Carolina. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator yield to the Senator from South Carolina?

Mr. EASTLAND. I yield.

Mr. JOHNSTON of South Carolina. Along that line, we were working under conditions which were impossible, I think. We could offer amendments, and then have 5 minutes, but of course some Senator could offer an amendment to the amendment, and then perhaps we would discuss that matter. That also took up time. Naturally it would.

Senators can readily understand we did not have sufficient time to discuss the amendments before the committee.

Mr. EASTLAND. Mr. President, the distinguished Senator from South Carolina is correct. I think that if the Judiciary Committee were given the time to go over the bill, Senators would not realize it was the same bill when it came back to the Senate, and the Senate would vote to sustain the action of the committee.

PRIZES WON BY SOUTH CAROLINA HIGH SCHOOL BANDS IN THE CHERRY BLOSSOM FESTIVAL

Mr. THURMOND. Mr. President, I take great pleasure in calling to the attention of the Senate the fact that three South Carolina high school bands were designated yesterday as winners of five of seven prizes given in the annual Cherry Blossom Festival band competition, which was held at the National Guard Armory, here in Washington. The Brookland-Cayce High School Marching Bearcats won the grand prize as the best all around band in the festival competition, after placing first in the marching contest and third in the music contest. The Brookland-Cayce Band is currently the official South Carolina championship marching band, by virtue of having won a statewide contest last November in Greenville, S.C. The band, directed by Mr. T. R. Thornley, has been commended by the South Carolina General Assembly for the excellent record it has made in the last 5 years. This is another high honor for this great band, and South Carolina is very proud of its outstanding accomplishment.

Other South Carolina high school bands which won recognition in the festival competition include the Red Raider Band, of Latta High School, Latta, S.C., which won second place in the marching contest; and the Seneca High School Band, of Seneca, S. C., which placed third in the marching contest.

We in South Carolina are proud of this splendid record of achievement by the Brookland-Cayce, Latta, and Seneca high school bands.

Mr. JOHNSTON of South Carolina. Mr. President, I am glad my colleague, the junior Senator from South Carolina, has brought this matter to the attention of the Senate and to the attention of the Nation.

I wish to point out that it is nothing new for South Carolina high school bands to win in the Cherry Blossom Festival competition, for last year and also the year before South Carolina bands were the winners.

So I wish to commend most highly the directors and the members of these South Carolina high school bands. Their accomplishments have been outstanding; and their instructors are entitled to special credit and commendation for the excellent musical skill and ability they have imparted to the members of the bands.

Mr. EASTLAND. Mr. President, the Senators from South Carolina have, with justifiable pride, informed the Senate of the prizes which have been won by South Carolina high school bands in the annual Cherry Blossom Festival.

Without attempting to detract from the credit that is due those fine groups, I wish to point out that this year's Miss America is a beautiful and talented young lady from the State of Mississippi. Furthermore, last year's Miss America was also an equally beautiful and talented young lady from the State of Mississippi. In fact, at the University of Mississippi, future Miss Americas are being "red-shirted" now; and we expect them to continue to win.

Mr. JOHNSTON of South Carolina. I should point out that because of the use of a spinning wheel in making the selection at the Cherry Blossom Festival, the winner is not necessarily the most beautiful contestant. However, if in the contest the judges had the right to award first prize to the outstanding contestant, rather than to have the winner determined by the spinning of a wheel, the winner in the beauty contest, year after year, would have been a South Carolinian—not only in the contest in Washington, but also at the Azalea Festival. In any beauty contest, young ladies from South Carolina are sure to excel.

Mr. EASTLAND. Does the Senator from South Carolina refer to the contest in Washington, D.C.?

Mr. JOHNSTON of South Carolina. Yes; and also to any other competitions in which the contestants come from all over the Nation. Whatever the contest may be, I believe that young ladies from South Carolina will win.

Mr. EASTLAND. But the "Old Miss" young ladies win the Miss America contests at Atlantic City—and very rightly so.

Mr. THURMOND. Mr. President, I would not say a word to attempt to detract from the credit due the great State of Mississippi because two Miss Americas have been from that State, in consecutive years; and Mississippi is certainly to be highly commended for her beautiful young ladies.

Mr. EASTLAND. They are very beautiful and very fine.

Mr. THURMOND. Indeed so.

In fact, I believe Mississippi is beginning to follow in the South Carolina tradition, because I believe a young lady from South Carolina won the Miss America contest the year before a young lady from Mississippi won the Miss America contest for the first time.

In addition, other beautiful and talented young ladies from South Carolina won that year, and for several years before, the Miss Dixie contest, the Miss Tobacco Queen contest, and also the Miss Universe contest.

So we are very proud of the pulchritude, the charm, the dignity, and the grace of the young ladies of South Carolina; and I am sure that both they and the young ladies from Mississippi will compare most favorably with any in the Nation; and I join my distinguished friend in complimenting the womanhood of both States.

Mr. EASTLAND. The distinguished Senator from South Carolina should be very proud of the fine young ladies of South Carolina—as I am equally proud of the fine young ladies of Mississippi. The fact is, however, that young ladies from Mississippi have won the Miss America contest for 2 consecutive years; and some of the very fine young ladies at the University of Mississippi are now being "red-shirted" for that contest, and are going to continue to win.

In addition, the University of Mississippi has had some very outstanding football teams, of which I am also very proud.

NOTICE OF HEARINGS OF THE SUBCOMMITTEE ON TREASURY AND POST OFFICE DEPARTMENTS APPROPRIATIONS

During the delivery of Mr. EASTLAND's remarks,

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

Mr. EASTLAND. Mr. President, I ask unanimous consent that I may yield to the distinguished junior Senator from Virginia, a very able lawyer and a very great Senator, on the condition that it does not prejudice my right to the floor, and does not count as two speeches or as an additional speech.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Mississippi? The Chair hears none, and it is so ordered.

Mr. ROBERTSON. Mr. President, of course I appreciate the high tribute my distinguished friend has paid to me. I lack adequate words to express proper appreciation of a tribute beyond my just desserts.

It is with regret I have interrupted the very splendid address being made by my colleague from Mississippi, but in view of the fact that we failed to give a notice in the RECORD yesterday, I believe it is desirable to announce today that commencing on next Tuesday at 10 o'clock a.m. the Subcommittee on the Treasury and Post Office Department's appropriation bill will commence hearings in room F–39 of the Capitol. Witnesses from the Treasury Department, as is customary, will be heard first.

Again I thank my distinguished colleague for yielding to me, and I ask unanimous consent that the announcement be printed at an appropriate place in the RECORD.

Mr. EASTLAND. Mr. President, I ask unanimous consent that it be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Is there objection of the request of the Senator from Mississippi? The Chair hears none, and it is so ordered.

SECOND SUPPLEMENTAL APPROPRIATION BILL

During the delivery of Mr. EASTLAND's speech on his motion to recommit the civil rights bill,

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

Mr. EASTLAND. Mr. President, I ask unanimous consent that I may yield to the distinguished and outstanding Senator from the South—South Dakota—provided I do not lose my right to the floor, and provided my remarks when I resume will not count as another speech.

The PRESIDING OFFICER. Is there objection. The Chair hears none, and it is so ordered.

Mr. MUNDT. Mr. President, I also ask unanimous consent that these remarks may appear at the conclusion of the address of the Senator from Mississippi.

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

Mr. MUNDT. Mr. President, as a member of the conference committee which considered the second supplemental appropriation bill, I want to register my vigorous protest to committee action which deleted the Senate amendment of $7,362,000 for payments to school districts in federally impacted areas under provisions of Public Law 874 of the 81st Congress, for fiscal year 1959.

The Senate conferees did their best to sustain the action which the Senate took, as I did personally. The House conferees were adamant. As a consequence, a compromise had to be evolved.

This action was taken because it involved operating and maintenance costs for a school year now passed. The House conferees reasoned that the 4,000 districts involved could absorb the difference between Federal assistance and costs of operation.

On behalf of the Senate, the Senate conferees said they did not feel that could be done. Very emphatically, I do not agree that it could be done, because the Federal Government had assumed at least a moral obligation to the school districts, and many of them had expected and anticipated those funds under the previous regulations and legislation.

The Federal Government assumed the responsibility of providing funds for districts whose local sources of revenue had been reduced because of Federal acquisition of real estate, or when such districts provide education for children residing on Federal property, or when the needs have increased because of some temporary upsurge in Federal employment which tends to upset the local school districts.

Assistance is given in compensation to local agencies for providing education for children whose parents are employed on Federal property and where there has been a sudden and substantial increase in school attendance as the result of Federal activities.

These school districts have honorably kept their half of the agreement, and now the Federal Government refuses to fulfill its moral obligation, not because there is any question of the validity of these claims, but, rather, based on the premise that these districts have thus far managed without these funds, and therefore can absorb the difference.

I reject that line of reasoning by the House of Representatives. I am hopeful that on some future occasion we can take what I believe is justifiable action. This is an unfortunate shirking of rightful responsibility on the part of the Federal Government, and I vigorously protest it.

I am happy that the conference committee agreed to include $22,343,000 for payments to these impacted districts for cost of operation in fiscal year 1960, despite efforts by the House conferees and on behalf of the House of Representatives to delete or reduce this sum, as well. I am pleased that my views and those of a majority of my colleagues prevailed in this instance, so it will prevent the situation from growing worse, and prevent a recurrence of the situation which the Senate tried to correct by the action it took on this appropriation bill.

I rise to express the hope that in some future supplemental appropriation bill these rightfully due funds may be included in demonstration of our good faith for the past performance of these school districts.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

CIVIL RIGHTS ACT OF 1960

The Senate resumed the consideration of the bill (H.R. 8601) to enforce constitutional rights, and for other purposes.

Mr. JOHNSTON of South Carolina. Mr. President, in discussing the bill now before the Senate, I invite attention to the fact that it goes into fields that the Federal Government has stayed out of ever since 1894. As Senators will recall, the Federal Government entered a field somewhat similar to this immediately following the War Between the States, and remained in this field to some extent until 1894.

In my State of South Carolina the Federal Government took absolute charge of everything until 1876. All the elections were carried out with the aid of the bayonet until 1876. Then the Federal Government began to relax in the field of elections, and it continued to relax until 1894, when the last statute on the books which gave the right to the Federal Government to interfere with State elections was repealed. That year the Federal Government withdrew from the field, and it has remained out of the field of elections to a great extent ever since then.

As we look at the Constitution of the United States, we find nothing which gives the Federal Government the right to come into a State and interfere with

an election. At the present time it is trying to enter into the field under what is known as the 15th amendment.

In the future, when the proposed law is tested out, I believe that we of the South will find that it is not what some think it is at the present time. I believe it will be found that it will interfere with elections throughout the United States.

I recognize the right of the Negro to register and vote, and to have his vote counted. I do so because it is permitted to him under the Constitution of the United States. I do so in South Carolina because our State laws permit him to register, to vote, and to have his ballot counted. We had approximately 160,000 registered Negroes in South Carolina. Something was said to the effect that there was one county in which there were none. I wish to correct that statement. Colored people are registered in every county in South Carolina. The reason it was thought that there was one county in which none were registered was that the Civil Rights Commission went into my State immediately after we canceled the old list of registered voters in my State, and before very many people had registered under the new registration period. The Commission took over before we had an election following the time when the registration system was changed.

Let us bear in mind that this represents nothing new for our State. We have a new registration period every 10 years.

So the statement that only 57,000 colored people were registered in my State, and that in one county not one colored person was registered, is not true. The inaccuracies of the Civil Rights Commission were also reflected in the report that my State has 47 counties. We have 46 counties in South Carolina. I have talked with the people in charge of registration in South Carolina, and I am advised that every county in the State has registered Negroes. Registration takes place on certain days of the month when the registration books are available at the courthouse. Both colored and white people stand in line to register, and take their turn in registering. Of course, there are certain rules connected with registration. For example, no one can register 30 days before the election. There is a reason for it. A person may move from one precinct to another during the 10 years of the registration, and the 30 days are used to purge the rolls, so that there will be no duplication on the rolls within the State. That has been the law for many years.

My opposition to all of these so-called civil rights bills—we would better call them civil strife bills—is not based upon any objection I have to the rights of Negroes to vote. No doubt the laws of South Carolina granting the free exercise of the right of franchise are not dissimilar in purpose or spirit from the laws of any of the other 49 States. These State laws, like those of my State, guarantee to all, whether white, black, brown, or whatever color or race, the equal right to vote. The qualifications for voting are the same for all races. I know of no one who can and has met those qualifications and who has been denied the right to vote in South Carolina. The attorney general of South Carolina, who has had over 10 years of almost daily contact with the problem, that is the voting rights problem with which his office is directly concerned, asserts that to his knowledge there has been but one complaint during the last 10 years.

That complaint was minor in character. The attorney general was able to solve it quickly and satisfactorily to all concerned. That is a record which compares favorably with the record of any other State in the Union.

Of course, in South Carolina we are not beset with the problems created by the influx of foreign nationals with the current wave of friction, bloodshed, turmoil and strife in our large centers of population. Our colleagues from these sections have our sympathy, but just as I feel that the operation of States rights should take place in South Carolina, I feel that these States to the north should resolve their own problems.

In South Carolina, many of our Negroes are in business, in the professions, in the farming industry, or own their establishments and are fully aware of and conversant with their rights. Many exercise their rights without harm, restraint, or interference. It is only when evildoers, do-gooders, professional agitators, so-called reformers and others, whose only knowledge of existing local conditions is gained from a one-sided, slanted, narrow, biased, and prejudiced press seeking to stir up our people, set race against race and person against person, that we find ourselves embroiled in a mesh or labyrinth of discord and civil strife. Many of these meddlers would better serve the country if they attended to their own local affairs and solved the problems facing them in their own backyards. Particularly is this true in the large metropolitan centers throughout the country.

What I am opposed to is the constant whittling away of the powers reserved to the States under the 10th amendment to the Constitution. Let us look at the provisions of title VI of H.R. 8601, so far as a voting-referee proposal is concerned. It is proposed that the voting referee be given all the powers invested in a master by rule 53–C of the Federal Rules of Civil Procedure. The number of referees can run into the thousands. Their costs can run into the millions of dollars. The only restrictions on the general powers of a master is that he is forbidden to act in any way inconsistent with the provisions of H.R. 8601. On the other hand, the general powers of a master are greatly enlarged and his authority broadened by the other provisions of H.R. 8601, as I shall later point out. Ordinarily in equity or law cases where a master is appointed, the parties to the litigation bear the additional expense of a reference to a master. Not so here. The costs which may involve an outlay of untold millions of dollars for these countless numbers of referees are to be paid by the United States. In other words, your tax dollars and my tax dollars must be increased to the extent it will be necessary not for an individual but for the Attorney General's proceedings on behalf of individual claimants who allege a denial of their voting rights. Thus the Attorney General's office must be enlarged. I can see why he is for it. The district attorneys' offices must be expanded and the whole force of both offices increased to meet the added expense when the Attorney General is authorized and empowered to engage in private litigation for those who allege that their rights are violated. This is something new. The Attorney General will be their attorney, and the taxpayers will pay for it. The people of South Carolina will be taxed, no doubt, to guarantee the right of franchise to the newly made citizens of other States, since there are no complaints originating in South Carolina.

What the country needs as a whole is the condition and experience we enjoy in South Carolina. The country needs conscientious, able, and informed election officials. But the bill does not touch them. Then there will be fewer complaints and a more able and efficient administration of all phases of our election machinery. The trouble is we are not touching it whatsoever. Our laws provide penalties now for the abuses of election laws and privileges. These penalties and the other remedies provided by law are prompt, just, and adequate. In other words, new laws are not needed. Additional statutes are not required. They would merely complicate existing laws, retard their speedy and fair administration and increase the overall costs both to the States and to the Nation as a whole.

Let me tell Senators another thing which will happen. In my State, this proposal may retard what is sought to be accomplished. Instead of doing good, I predict it will do harm. It is often said that a horse can be led to the trough, but he cannot be made to drink. That being so, laws such as this will merely complicate the existing laws and retard progress.

I call attention again to the 160,000 colored people who were registered in South Carolina up to 1958. I predict that before 1968, more than that number will be on the rolls. As I said a moment ago, I fear that a bill such as this may do more harm than good.

Instead of working for a real and sincere betterment of conditions for their race, the National Association for the Advancement of Colored People on the contrary is doing precisely the opposite. Their members are creating civil disorders, contentions, strife, and discord. This has taken place recently. This is no way to progress. This is no way to advancement. This is no way to peace and harmony among peoples of different races and backgrounds. Such conduct is conducive to mob violence, law breaking, crime, and general disorder. It is to the great credit of the great majority of our southern Negroes that they spurn the interference of these influences which they consider foreign to them.

A large majority of the colored people of my State resent outsiders coming in and telling them what to do and how to act. I think that almost everywhere one goes, he finds that when someone comes in from outside and tries to influence the reelection of someone in a State, more harm than good is done. Our colored people frown upon and disown these unsolicited interferences. Instead of discouraging these outbreaks by members of its race, the NAACP in published statements fosters and encourages a continuance of them.

I noticed in the newspapers recently that the NAACP went so far as to call an ex-President of the United States to try to get him to change a statement he had made. That was critical of sitdown demonstrations.

Moral persuasion and right thinking cannot be accomplished by statute, however strict or punitive in nature. Good will is needed. Moral values need reassessment. A little of the old-fashioned religion is required. The gospel of right, truth, and honor needs to be spread around more generously. This is not a one-way affair. It is a two-way street. Both races need more of it. More laws, I contend, are not the answer to the problems we face. What we need is more patience, a higher concept of the moral values involved and a better education in the difficulties confronting us. Progress cannot be legislated. It certainly cannot result from repressive action, punitive treatment or criminal penalties.

As I have heretofore stated, the voting referee's powers would exceed the powers of an ordinary master. The voting referee would not need to be a lawyer, although I have rarely known of any master who was not a lawyer. He is invested with the power to hold hearings, take testimony, receive evidence, issue orders and make reports. The powers of a master are judicial in nature. He may administer oaths. He rules as a preliminary matter on the admissibility of all evidence presented before him at the hearings he conducts. His powers are general by nature and are provided for in rule 53–C of the Federal Rules of Civil Procedure.

Mr. President, I want all Senators to consider carefully the provisions of rule 53–C of the Federal Rules of Civil Procedure. By reference, that rule would become a part of this law, although the provisions of the rule are not actually set forth in the proposed law. That rule reads as follows:

> The order of reference to the master may specify or limit his powers and may direct him to report only upon particular issues or to do or perform particular acts or to receive and report evidence only and may fix the time and place for beginning and closing the hearings and for the filing of the master's report. Subject to the specifications and limitations stated in the order, the master has and shall exercise the power to regulate all proceedings in every hearing before him and to do all acts and take all measures necessary or proper for the efficient performance of his duties under the order. He may require the production before him of evidence upon all matters embraced in the reference, including the production of all books, papers, vouchers, documents, and writings applicable thereto.

Mr. President, bear in mind that only one side would be permitted to present its case there, and that side would be the only one that would have a right to ask for the production of any books, papers, or vouchers. The other side would not even be allowed to make a request there; the proceeding would be ex parte.

I read further from the rule:

> He may rule upon the admissibility of evidence unless otherwise directed by the order of reference and has the authority to put witnesses on oath and may himself examine them and may call the parties to the action and examine them upon oath. When a party so requests—

And, Mr. President, note the use of the words "a party." There would be only one party at the hearing.

I read further:

> The master shall make a record of the evidence offered and excluded in the same manner and subject to the same limitations as provided in rule 43–C—for a court sitting without a jury.

Mr. President, as Senators will note, in all this the referee would be given a right to proceed behind closed doors; and he, alone, would rule upon the admissibility of evidence. He would have sole control all the way through. At the hearing, the registrar who would be accused of failing to do his duty, because of his alleged failure to register the colored person, would not be permitted to present his case. The hearing would be held only for the colored man. Obviously that would not be proper, for the law should apply generally. If there were discrimination against a white person, that person should also have a right to come into court. But this bill would not permit him to do so. This bill would give such rights and privileges only to colored people. I think that phase of the bill constitutes a direct slap at the South, which is doing a good job. It takes time to work out such problems.

The voting referee under the provisions of House bill 8601 title VI, would have the full power of a master, he, though he might not be a lawyer, also would be invested with the broad power "to receive such applications and to take evidence and report to the court findings as to whether or not at any election or elections (1) any such applicant is qualified under State law to vote, and (2) he has since the finding by the court heretofore specified been (a) deprived of or denied under color of law the opportunity to register to vote or otherwise to qualify to vote, or (b) found not qualified to vote by any person acting under color of law. The referee shall give the county or State registrar 2 days' written notice of the time and place of the hearing and such State or county registrar, or his counsel, shall have the right to appear and to make a transcript of the proceedings."

But the county registrar or his counsel would not be allowed to ask any questions at all.

I read further:

> His statement under oath—

Here the reference is to the statement made by the applicant, the colored man—

> shall be prima facie evidence as to his age.

But the bill says nothing about requiring the applicant to produce a birth certificate or anything of the sort. Instead, he would be the only one who would be allowed to testify about all such things. He might say, "I am 21 years old." In that case, I wonder how he could swear that that was his exact age.

After the provision, "His statement under oath shall be prima facie evidence as to his age," we then find in the bill the words, "residence, and his prior efforts to register or otherwise qualify to vote."

In other words, the applicant's statement under oath would—alone—be prima facie evidence in regard to all those matters which would have bearing on his rights.

I read further from the bill:

> Where proof of literacy or an understanding of other subjects is required by valid provisions of State law—

Mr. President, I do not know who would rule as to what was valid and what was not valid, among the laws then on the statute books, and who would separate one group from the other.

I read further from the bill:

> The answer of the applicant, if written, shall be included in such report to the court; if oral, it shall be taken down stenographically and a transcription included in such report to the court.
>
> Exceptions as to matters of fact shall be considered only if supported by a duly verified copy of a public record or by affidavit of persons having personal knowledge of such facts or by statements or matters contained in such report; those relating to matters of law shall be supported by an appropriate memorandum of law.

Mr. President, I do not know exactly how one who perhaps was not a lawyer could tell them what the law was.

I read further from the bill:

> The issues of fact and law raised by such exceptions shall be determined by the court or, if the due and speedy administration of justice requires, they may be referred to the voting referee to determine in accordance with procedures prescribed by the court.
>
> A hearing as to an issue of fact shall be held only in the event that the proof in support of the exception disclose the existence of a genuine issue of material fact.

That is when they go back to the court.

I continue to quote:

> The applicant's literacy and understanding of other subjects shall be determined solely on the basis of answers included in the report of the voting referee.

Bear in mind who makes the report. It is solely the report of the voting referee on which the matter is going to be determined. That provision is written into the law.

The only qualification in H.R. 8601 which is essential for one to obtain appointment as a voting referee is that he must be a qualified voter in the judicial district in which he serves—that is, the whole judicial district. They have got to find somebody in the district to be appointed.

Mr. President, I will tell my colleagues something the sponsors have overlooked in this proposed law. I am going to call it to the attention of the other side. Thank God for the judges who have

already been appointed throughout the South. I hope the ones we have will live another 100 years. We have excellent judges on the Federal bench in South Carolina. I hope in the future we get some who have the same knowledge of the law as do the Federal judges on the bench in South Carolina at the present time.

The only qualification in H.R. 8601 which is essential for one to obtain appointment as a voting referee is that he must be a qualified voter in the judicial district in which he serves. My contention is that a person invested with the powers of a master and the larger and broader powers to which I have alluded should be one versed or trained in the law, particularly the statutory requirements of one's eligibility to vote. Appointments at random can destroy the exercise of voting rights. The referee under this bill must note exceptions of fact and law. He must prepare a report on them for submission to the court for a decision.

I can imagine some persons they might appoint in my State and some of the reports they might make if those who were not lawyers were appointed. I do not know what the judges would do in my State when they received such reports. I think the proponents of the bill have forgotten that, too. The judges might scratch up the orders a little bit. They might destroy the reports and send the matters back for more evidence on which to base findings.

In the alternative, if the court delays, is busy, or, if due and speedy administration of justice requires—using the language of the bill at the bottom of page 18—the referee may supplant the judge and determine the issues of fact and law in accordance with some prearranged procedure prescribed by the court.

The bill further provides that a hearing shall be held where proof supports a genuine issue of material fact. This is a large order. No ordinary layman may possess the special knowledge to separate fact from law, distinguish and determine the existence of a genuine issue of material fact. I contend the qualifications for a voting referee should be spelled out so that only trained, efficient, morally erect, and conscientious persons can be eligible for an office carrying with it so much responsibility.

Are the powers thus conferred by reference to Federal civil rule 53–C and those added by title VI constitutional? are they necessary? Will they help anyone get the right to vote who may now be denied such a right? I contend that the attempt by this bill to confer such powers on any so-called voting referee is a denial and an abridgment of States rights as guaranteed by the 9th and 10th amendments to the Constitution. What this proposal attempts to do is to control from Washington the election machinery of the States and the officers of the States charged by State law with its administration. The only power granted by the States to the Federal Government, so far as elections or electors are concerned, is found in article I, section 2, and in the 17th amendment to the Constitution. It is unconstitutional, in my opinion, for the Congress to attempt by legislation or otherwise to usurp the function of a State or to appoint a Federal officer—a voting referee—to supervise a State election officer in the administration of his strictly State responsibilities.

Further, I think this bill, H.R. 8601, and particularly the voting referee's duties as prescribed in the bill, are unconstitutional because the Constitution in none of its provisions authorizes the Congress to intrude into State affairs in the manner the bill outlines.

I think also this bill is unconstitutional because the Constitution does not empower the Congress or the judicial branch of our Government to concern themselves with Federal or State elections. Complaints concerning nonvoting rights are not within the purview of any authority conferred upon the members of the judiciary by our Constitution. Our Federal judges are to sit in judgment in all cases of law and equity, arising under the Constitution, the laws of the United States, and treaties made, or which shall be made under their authority and with respect to admiralty cases and certain other cases wholly unrelated to the election of either a Federal or State official. We have, in my judgment, no constitutional right to pass a law which would authorize a Federal officer to superintend or supervise the election machinery or its administration by State officials. Such a bill as H.R. 8601 is usurpation, intrusion, and meddling in the raw. It becomes a rank unconstitutionality should it be passed by the Congress.

Often since I have been a Member of the Senate I have had occasion to quote the great Senator from Idaho, the late William E. Borah, who graced this body for so many years. His reasoning was clear. His arguments were sound. He was a great lawyer. He was a great American. When in 1938 there was the recurring problem of a Federal lynch law which used to haunt the Congress, Senator Borah in a speech here on this floor made an argument equally applicable against H.R. 8601. He said:

> The measure now before the body embodies the same principle upon which those measures were founded. The same arguments are made in support of the pending measure, to wit, that the southern people are to be distrusted and are incapable of local self-government.
>
> We know now what those measures in those days did. They retarded and frustrated the coming together of the people of the different States. They gave us the solid South.

That is the reason why we hear the "solid South" spoken of so much, because the rest of the United States keeps whipping the South.

> They separated us politically, which separation continues until this day. They implanted a sense of bitterness in the minds of those people, not because of what has happened upon the field but because of what happened in Congress.
>
> It is not in the interest of national unity to stir old embers, to arouse old fears, to lacerate old wounds, to again, after all these years, brand the southern people as incapable or unwilling to deal with the question of human life. This bill is not in the interests of that good feeling between the two races so essential to the welfare of the colored people.

These are the remarks of former Senator Borah. I am glad we have in the Presiding Officer's chair today the Senator from Idaho [Mr. CHURCH].

Mr. President, I quote further from Senator Borah's remarks:

> Nations are not held together merely by constitutions and laws. They are held together by mutual respect, by mutual confidence, by toleration for conditions in different parts of the country, by confidence that the people of the different parts of the country will solve their problems, and that is just as essential today as it was in 1865 and 1870.
>
> In the beginning, Mr. President, I reject the pending measure as fundamentally not in the interest of the white people of the South, not in the interest of the black people of the South, not in the interest of the national unity nor of national solidarity, not in the interest of eliminating crime.
>
> History has proven that it will be a failure, and those who suffer most will be the weaker race.

This is a quotation from the remarks of former Senator Borah in 1938. The legislation now proposed will only stir up bitterness and arouse more hatred. It will create ill will, and its enforcement will be difficult, if not impossible, so much like the antilynching law, about which the late Senator Borah said:

> Mr. President, suppose Congress passes this bill; suppose it becomes a law; where must we go for its enforcement?

Let that sink in.

Mr. President, I continue to quote Senator Borah's remarks:

> The bill may be passed by votes from other States, but for its enforcement we must go to the juries in those communities which we condemn.

In this case it is to be taken away from the juries, but left in the hands of the judge, eventually, thank the Lord.

I continue to quote:

> The bill may be passed in the theoretical atmosphere of Washington, but it must be enforced down among the people in the realistic atmosphere of the Southern States.

That is true with respect to the bill before us, also. It will have to be enforced in the Southern States.

Mr. President, I continue to quote former Senator Borah.

> There will be the southern district attorney—

I know one of those who will have a time getting his nomination confirmed, from my State. I am serving a warning on him right now. I want to know that boy very well before he has his nomination confirmed—

> the southern judges—

The ones we have now are very fine ones. I am going to vote to confirm their nominations. Those nominations will not pass the Senate, I can say that much, unless they get OLIN JOHNSTON'S support.

Mr. President, I continue to quote former Senator Borah's remarks:

> There will be the southern district attorney, the southern judges, the southern juries, and they must be depended upon for the enforcement of the law. Do Senators think they will more likely enforce the law

when they have been condemned in the sight of all the world, and in the face of such condemnation, than when they are appealed to from the standpoint of the sense of duty of their State and their sense of duty of citizenry?

We get back, after all, to the people themselves for the enforcement of the law. We have had an experience in this country showing that we cannot enforce a law when public opinion is not behind the law. The only way in which we can hope to have the law enforced is by the method that is now pursued by the southern people—that is, to educate the people up to an understanding that it is to their interest and to their honor to maintain law and order in their communities—and that they are doing.

Further on Senator Borah said:

And, Mr. President, in conclusion, the progress, the development, and the advancement of the South, including the last 70 arduous years, her history from Washington and Jefferson down, rich with the names of leaders, orators, and statesmen; her soil, her sunshine, her brave and hospitable people, her patient and successful wrestling with the most difficult of all problems, are all a part of the achievements of our common country and they constitute no ignoble portion of the strength and glory of the American democracy. I will cast no vote in this Chamber which reflects upon her fidelity to our institutions or upon her ability and purpose to maintain the principles upon which they rest.

God bless him for that statement. If more people thought and acted along that line, our Nation would be much better off.

What we need now is a voice from across the aisle, and if you please, from this side too, which in clear and unmistakable language would chart our constitutional responsibility and keep us within the letter and spirit of the Constitution.

There is great need in the world today for unity. We need unity and good will at home. It is needed by the States. Our National Government must have unity among its peoples. The nations of the world, armed to the teeth with the most destructive weapons ever known or conceived by science and man's development of it, need unity, friendship with one another, and a spirit of good will. Cleavages and differences must be allayed, not sharpened—softened, not made more bitter.

The Congress has important work it should now be doing in the interest of all of us and the peoples of the world. Yet we are embittered here in a useless and needless struggle merely for the hope of some political advantage during this election year. We are engaged because we are prodded into it by the paid representatives of an association dedicated now more to agitation than it is to advancement. I do not believe the colored people in the South have any interest in their meddlesome mouthings and undertakings. I am positive that in my own State this organization which is doing so much to create confusion, strife, and ill will, does not meet with the favor of the great majority of our colored citizens. I do not believe they appreciate the harm that will come from the transgressions of members of their race living in the cities of the North.

I plead for sanity in our deliberations. I plead for sanity in our legislation. I plead for unity among our peoples. H.R. 8601 accomplishes none of the things for which I plead.

I would like to bring to the attention of the Senate an article that appeared in the current issue of the Reporter magazine of March 31 entitled "How the Northern Negro Uses His Vote."

While I do not agree with everything contained in this article, I think it is of such significance that it should be brought to the attention of the Members of the Senate and the House of Representatives. Particularly it should be brought to the attention of the so-called liberal Members of the Congress who are currently going through the throes of their annual spring drive to broaden civil rights legislation and their seemingly deep interest in stretching the meaning of provisions contained in our Constitution.

There was a time when the problem of integration, which after all is the all-encompassing phrase for these civil rights proposals, was a problem peculiar to the South. Today, however, the problems involved are applicable in a large degree more so to the large northern areas than to our southland.

The northern liberal press, of course, has blinded itself to any of the racial problems in the North and for years now, nearly a generation, has been attacking the South and its way of life and has been encouraging the various devious means of trampling our Constitution in order to bring what they call social and political emancipation to alleged minority groups of our country.

Actually in this drive to use the South as a whipping boy the basic truths of the problems have been completely overlooked.

For example, in the field of voting, the liberal newspapers keep harping that the Negro must be given the freedom to vote—the right to vote—the right to exercise his political prowess in the South. In all of these writings and editorial attacks concerning the South seldom has any large liberal newspaper mentioned conditions in the North such as in New York where thousands upon thousands of Puerto Ricans are disfranchised because they cannot meet the qualifications for voting in that State. In the South Negroes have more political freedom than they do in the North for a very basic reason. In the South Negroes vote as individuals in most elections. To my knowledge no Negro has been illegally disqualified from registering and voting in my State of South Carolina. Negroes have a right to vote in South Carolina and they do so independently and as individuals. In the large northern cities, however, where they may have a right to vote, they do not vote freely because they are frenzied into block voting or, if you please, spite voting, by race-baiters, hate agitators and political despots who dictate what the Negro voters shall do and who tell them if they do not vote a certain way what they will not get. In South Carolina, for example—I use South Carolina as an example because I know about conditions in my State—when people run for office they do not rave and rant about hatreds between the races and they do not offer one minority group over another majority group, or vice versa, special political dispensation. When people in South Carolina run for public office they run on their record and they expound what they will do for the people of South Carolina—not the Negro people—not the Catholic people—not the Jewish people—not the white people—not the low-country people—not the Piedmont people and not any other special kind of people—we say what we will do for all the people of South Carolina. Sadly, in the North the situation is not the same and if the present majority of the Congress insists and persists in continuing to dig up civil rights legislation which stirs up hatred and points up differences between minority groups, they will only worsen the situation in the North. They will not create more freedom for Negroes and other minority people, but they will actually cause the opposite effect. They will diminish the freedoms of these minority groups because they will drive these minority people away from becoming a part of our civilization and into a minority block group. Individuals in block groups do not act as individuals nor do they vote as individuals. They become blocks who vote and act like machines run by machine politicians.

In the South we have always practiced segregation, but Negroes have always held positions of authority, trust and honor both in government and in private business as do whites, Jews, Catholics or what have you. In South Carolina we treat people on individual merit. The standard of living of the average Negro in the South, in my opinion, is far above the standard of living of the average Negro of the North. There are variances, of course, in specific areas, but I do not hesitate to say that the average Negro in Columbia, S.C., for example, realizes more political freedom, social prestige and economic freedom than the average Negro in New York City.

I defy New York to treat its Negro teachers the same as we treat ours in South Carolina. They actually discriminate against the number they employ in New York. I think that is true generally in Northern States. We have far more Negro teachers in South Carolina, by percentage, than there are in any Northern State.

In the long run the drive for civil rights legislation in Congress will accomplish little or nothing for the Negroes of America or for any other minority group in America. Certainly these bills will accomplish nothing for the average American, regardless of religious or racial background.

Actually this type of legislation is just another way of accomplishing changes in our Constitution without going through the legal steps of obtaining constitutional amendments. The very blessings of our party system of government have brought with it a curse. This curse is the one placed upon the politicians who are blind to constitutional government and who would sacri-

fice the foundations of our Government in order to satisfy the temporary appetite of pressure groups such as the National Association for the Advancement of Colored People. One must be politically realistic in analyzing the situation as it exists today. One of these realistic facts is this fact which every Member should know, if he does not already know: The fact is that without a racial issue the NAACP would go out of business in 24 hours. Without strife, without constant stirring of racial hatreds and without a racial issue of some nature, the NAACP would just wither away. That being so, if the politicians from the North would quit listening to the ranting and mythical charges of the NAACP and similar organizations, and would conduct their politics from a high-principled constitutional platform looking to the welfare of all people rather than minority groups, then eventually the NAACP's appeals would fall on deaf ears and the Negroes would vote as individuals and would realize genuine political freedom. The natural following is that, having lost its freakish powers, the NAACP would go out of business and the politicians of the North would be free to represent all the people without having to make specific reference to minority groups in every political ward of the North. Such development would create a healthy atmosphere under which the representatives of the people would come to Washington and we would begin to work together for the welfare of all people instead of spending 4 months of a 6-month legislative year wrangling over civil rights legislation which can never accomplish any good for the people.

Mr. President, I would like now to read into the RECORD for the benefit of the Nation this deeply analytical article from the Reporter entitled "How the Northern Negro Uses His Vote":

HOW THE NORTHERN NEGRO USES HIS VOTE

(By James Q. Wilson)

In certain political quarters, one of the most eagerly—and apprehensively—awaited events of 1960 will be the publication, by the Department of Commerce, of the preliminary tabulations of the decennial census of the United States. When they appear, the first page to which many will turn will be that showing the size of the Negro population of northern cities.

The great migration of Negroes to the north has been one of the most significant events of the past 20 years. In 1940, more than three-fourths of all American Negroes lived in the South. Today, about one-half remain; the rest have gone north and west to the great Negro population centers of Chicago (800,000), New York (nearly 1 million), Philadelphia (500,000), Detroit (450,000), Los Angeles (255,000), and elsewhere. The impact of this tidal wave has been felt in housing, employment, welfare services, and crime rates, but nowhere has its long-term importance been greater than in the area of politics.

From four northern cities Negroes have gone to Congress—WILLIAM L. DAWSON from Chicago; ADAM CLAYTON POWELL, JR., from New York; CHARLES C. DIGGS, JR., from Detroit; and ROBERT N. C. NIX from Philadelphia. Negroes sit in the councils of dozens of cities and in many State legislatures. Negro leaders are expecting to capture additional congressional districts in the near future. Two in California, two more each in Illinois, Michigan, and New York, and others already have (or nearly have) Negro majorities.

The voting strength of northern Negroes is relatively high. In 1956 it is estimated that 3 million Negroes registered to vote in the North, of whom perhaps 2 to 2½ million actually voted. The Congressional Quarterly, in the same year, concluded that Negroes held the balance of power in 61 congressional districts in the North—that is, the size of the Negro vote based on 1950 figures was greater than the majority won by the incumbent Congressman.

Many Negro leaders view this development with satisfaction. At the same time, Negroes and whites alike see many problems arising as a consequence of this steady upsurge in the Negro vote.

REWARD YOUR FRIENDS?

One problem concerns the future of northern liberals. In the past, Congressmen and other elected officials from large northern cities have been sensitive to the presumed demands of Negroes and other minority groups. In part this attitude stemmed from conviction and in part from a frank appraisal of Negro voting strength.

But as Negroes move into formerly all-white political districts at an ever-increasing rate, an effort is almost invariably made to replace the white elected officials with Negroes. Many white politicians, when Negroes enter their bailiwicks, often take firm and vigorous stands on civil rights and similar matters. When Negroes become the dominant group in the district, however, the liberal performance of the white official has been of little value in insuring his continuance in office. He is placed in a hopeless situation when race appeals (a Negro leader for a Negro district) override positions on issues. Negroes argue that such changes are justified by the need for direct access to Government; whites, on the other hand, often feel they have been let down. "Why stick your neck out," one of them said, "if they will only chop it off in the end?"

Negroes themselves are split on this question. In Detroit, two white liberal Congressmen, THADDEUS M. MACHROWICZ of the 1st District and JOHN D. DINGELL, of the 15th, were challenged by Negro opponents in the 1958 primaries. The AFL–CIO, a strong political force with many Negro members in these districts, fought to reelect MACHROWICZ and DINGELL. They won decisively, but it required persuading a large number of Negroes to vote for the white candidate against the Negro in the Democratic primary. The union leaders feel that it is only a matter of time before it will be impossible to hold the seats for any white men.

SYSTEMS AND LEADERS

How and when Negroes manage to win elective office varies from city to city. In most cases, getting in office is dependent upon the electoral system in the city and the nature of the party organization. Negroes rise more quickly to public office where the city chooses its officials on the basis of a large number of relatively small districts, such as wards, councilmanic districts, and assembly districts. Chicago, for example, elects 50 aldermen to its city council from small wards, the average population of which in 1950 was only 72,000. As a result Chicago, with a large and highly concentrated Negro population, had a Negro alderman as early as 1915, and now it has six.

New York, with a larger population, elects only 25 city councilmen from districts averaging more than 300,000 in population. The result is that only one Negro sits in the New York City Council. In Los Angeles, where the Negro population is proportionately nearly half the size of Chicago's and where the councilmanic districts are twice as large, there is still no Negro on the council.

The Negroes' entry into elective office is even further slowed when the city chooses its officials at large rather than from districts of any kind. Detroit, for example, has a nine-man common council elected at large from the city as a whole. Although the Negro population is believed to be at least one-fifth of the total, it was not until 1957 that a Negro won a council seat.

Many city political organizations have come to realize that the growing Negro population is one of the largest and most dependable sources of political strength. When a party in a city like Chicago allocates the resources it has for getting out a big vote, it frequently decides to put them most heavily into the Negro neighborhoods. This strategy pays off. The majority received by Chicago's Mayor Richard J. Daley when he was first elected in 1955 came largely from the Negro wards. Today in Chicago and Manhattan, Negroes provide between one-fourth and one-half of the Democratic Party's majorities, and it seems highly probable that this proportion will increase in the future.

The possibility of sustaining a strong party organization, once thought to be a thing of the past, has revived with the influx of Negroes into northern cities. Patronage—city hall jobs and favors—has lost its attractiveness to many of the older ethnic groups as they have risen in economic and educational status. Because the Negro is typically in an underprivileged economic position and because discrimination or his lack of training often excludes him from other job opportunities, he tends to regard such patronage as valuable.

The different political systems in American cities produce different kinds of Negro political leaders. Where men are elected from a small-district system by a strong party organization, Negro (as well as other) leaders are often men like Chicago's aldermen—distinguished for their party regularity, their lack of interest in the kinds of issues that excite the newspapers, their devotion to politics as a career. Where officials are elected at large in cities without strong party machines, the Negroes who are successful often are not professional politicians and have achieved prominence in some other career, such as law, journalism, or civic work. They usually take a great interest in newspaper issues. Since they are chosen at large, they must be acceptable to large numbers of white voters. To become acceptable, Negroes must often display even higher qualifications than those required of their white counterparts. The Negro member of the Detroit Common Council, William T. Patrick, is an attorney, a graduate of Harvard Law School, and an eminently respectable and energetic man. He managed to get both union and conservative newspaper backing.

Of course, if a Negro candidate's constituents are mostly Negroes, the temptation is very strong to agitate race issues and run against the white man as a means of attracting support. ADAM POWELL in New York has found the temptation irresistible.

STRANGE DEVICES

Although almost no one will discuss the matter publicly and few will mention it privately, there is a growing concern among whites about the long-range implications of the Negro in northern city politics. Some speak apprehensively of the day when Negroes will control the city council or perhaps elect a mayor. One Chicago businessman said, "When that day comes, to hell with this city; I'm getting out."

That day is not yet imminent, but there are signs of nervous anticipation on every hand. In some cities, changes in the political system have been made or proposed in order to curtail Negro political power and reduce the number of Negro officeholders.

In Chicago, some have urged altering the old ward system and electing some or all of the aldermen at large. Other reasons for such changes exist, and fear of Negroes is not always the motive behind these plans. But to many it is an important consideration. When the Chicago Home Rule Commission proposed, in 1954, reducing the number of aldermen from 50 to 35 and electing 10 of these at large, the Negro member of the commission, and most Negroes generally, opposed the suggestion because it would reduce Negro political representation.

Other cities have found it possible to make changes which, although prompted by a variety of motives, have had as an important consequence the limitation of Negro political strength. The Los Angeles City Council redraws its district lines every 4 years, and has done so in a way that places the Negro registered voters in a minority position in any given district. Most Negro leaders publicly charge, and many whites privately admit, that this is deliberate gerrymandering to keep Negroes out of the council.

Although Negroes number an estimated 255,000 in the city and perhaps twice that in the county, they have only a single elected official in Los Angeles—State Assemblyman Augustus Hawkins.

In Cincinnati, the repeal in 1957 of the electoral system that had been in use since 1924 was closely linked with the problem of Negro political influence. Negroes number about one-fifth of Cincinnati's population, and under the system of proportional representation in effect since 1924, they had always been able to elect one or two Negroes to every city council. The proportional representation system strengthened the representation of cohesive minority groups, and a Negro could win a council seat with as little as 13 percent of the first-choice votes in a typical election. Ted Berry, a prominent and vigorous Negro lawyer, was a councilman from 1949 to 1957. In 1955 he ran second in a field of 21 candidates, and as a result the council elected him its vice mayor. In 1957 the city voted to end proportional representation and revert to a system of voting for individual candidates.

Although little public discussion centered on this point, there is no doubt that a strong undercover argument against the old system was the election of Berry as vice mayor and the possibility that he might in time be mayor. Charges were circulated that a "Negro machine" was being built by Berry and that he was instrumental in encouraging Negro entry into white neighborhoods.

After proportional representation had been repealed, a new council election was held. Although Berry had the endorsement of the charter party, an influential group in city politics since the reforms of 1924, he ran 15th in a field of 18 under the new election system. In 1959, with stronger backing, he came in 10th in a race for 9 seats.

The 1960 census will undoubtedly show great increase in the Northern Negro population over 1950. In some cities, like Washington, D.C., it will probably amount to over half the total. This will increase resistance from Southern congressional leaders to home rule for Washington. In many wards in other cities where the exact size of the Negro population is now a matter of conjecture, there will be renewed efforts by Negroes to assert their claims to political representation when they have hard facts to demonstrate their numerical strength.

Mr. President, the article calls to the attention of the Members of Congress from the Northern States the fact that what today is a headache for the South will, tomorrow, be a headache for the North. Senators from the northern part of the country may think this bill will penalize only the South. But, Mr. President, here and now I predict that it will not be many years before the Senators who now are the most insistent in demanding that the bill be enacted into law will find that it has knifed them in the back; and then they, themselves, will try their utmost to do what I am now doing, as I try to keep the South from being penalized; and all of them will then be opposing the measure which today the Senate so-called liberals are endorsing.

Mr. President, when that time comes, I would hate to say, "I told you so"; but I believe it my duty now to let them know what they are facing at this time and what, in my opinion, they will face even more in the very near future.

Mr. President, in dealing with all these problems, may God guide us and help us to proceed wisely as we endeavor to bring about better relationships between the races, particularly in connection with the handling of these problems throughout the Nation. That will ever be my goal.

Mr. DIRKSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. ENGLE in the chair). The Senator from Illinois will state it.

Mr. DIRKSEN. Is not the pending question on agreeing to the motion of the Senator from Mississippi [Mr. EASTLAND] that the bill be recommitted to the Judiciary Committee?

The PRESIDING OFFICER. That is correct.

Mr. DIRKSEN. Mr. President, I propose to submit a motion to lay on the table the motion to recommit. But before I make that motion, I wish to yield to the distinguished Senator from South Carolina [Mr. THURMOND], who, as I understand, desires to speak for approximately 30 minutes. Therefore, I ask unanimous consent, Mr. President, that I may temporarily withhold my motion to lay on the table, in order to yield at this time to the Senator from South Carolina.

The PRESIDING OFFICER. Is there objection? The Chair hears none; and the Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I am most concerned about the apparent unconcern in the Senate over the provisions of title III of the pending bill, which imposes on State election officials the requirement to preserve certain voting records for a period of 22 months following specified elections. I do not use the term "certain voting records" for the purpose of conveying an impression of narrowness, for the language of the section would belie such an impression. On the contrary, it imposes on duly appointed officials of sovereign States the onerous task of preserving for a period of 22 months all records and papers which come into their possession relating to any application, registration, payment of poll tax, or any other act requisite to voting in any general, special, or primary election at which a candidate for Federal office is to be voted for. Every election official who willfully fails to preserve all records and papers, which come into his possession, relating to any and every facet of an election at which a President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representatives is to be voted for, will be fined a maximum of $1,000, or imprisoned for a maximum of 1 year, or both.

It is at once apparent, Mr. President, that the advocates of this measure are greater in their zeal for Federal action—any kind of Federal action—than in their knowledge of the language and import of this section, or than in appreciation of the basic relationship between the States and the National Government. I deem it advisable at this time to attempt to rectify both situations.

The complete text of this section is as follows:

TITLE III

Federal election records

SEC. 301. Every officer of election shall retain and preserve, for a period of twenty-two months from the date of any general, special, or primary election of which candidates for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, or Resident Commissioner from the Commonwealth of Puerto Rico are voted for, all records and papers which come into his possession relating to any application, registration, payment of poll tax, or other act requisite to voting in such election, except that, when required by law, such records and papers may be delivered to another officer of election and except that, if a State or the Commonwealth of Puerto Rico designates a custodian to retain and preserve these records and papers at a specified place, then such records and papers may be deposited with such custodian, and the duty to retain and preserve any record or paper so deposited shall devolve upon such custodian. Any officer of election or custodian who willfully fails to comply with this section shall be fined not more than $1,000 or imprisoned not more than one year, or both.

SEC. 302. Any person, whether or not an officer of election or custodian, who willfully steals, destroys, conceals, mutilates, or alters any record or paper required by section 301 to be retained and preserved shall be fined not more than $1,000 or imprisoned not more than one year, or both.

SEC. 303. Any record or paper required by section 301 to be retained and preserved shall, upon demand in writing by the Attorney General or his representative directed to the person having custody, possession, or control of such record or paper, be made available for inspection, reproduction, and copying at the principal office of such custodian by the Attorney General or his representative. This demand shall contain a statement of the basis and the purpose therefor.

SEC. 304. Unless otherwise ordered by a court of the United States, neither the Attorney General nor any employee of the Department of Justice, nor any other representative of the Attorney General, shall disclose any record or paper produced pursuant to this title, or any reproduction or copy, except to Congress and any committee thereof, governmental agencies, and in the presentation of any case or proceeding before any court or grand jury.

SEC. 305. The United States district court for the district in which a demand is made pursuant to section 303, or in which a record or paper so demanded is located, shall have jurisdiction by appropriate process to compel the production of such record or paper.

SEC. 306. As used in this title, the term "officer of election" means any person who, under color of any Federal, State, Common-

wealth, or local law, statute, ordinance, regulation, authority, custom, or usage, performs or is authorized to perform any function, duty, or task in connection with any application, registration, payment of poll tax, or other act requisite to voting in any general, special, or primary election at which votes are cast for candidates for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, or Resident Commissioner from the Commonwealth of Puerto Rico.

For the edification of the officials charged with the implementation of the electoral process who will be subjected to fines up to $1,000 and prison sentences of 1 year should the bill be enacted, advocates of this legislation should disclose at what point in time the collection of all records and papers should begin. It is apparent that the "preservation period" is to continue for a period of 22 months from the date of the election. However, there is no indication as to the length of prior history relating to such elections which is required under the section.

The language of the section is so comprehensive that it readily encompasses all correspondence received by election officials if there is the remotest connection between it and acts requisite to voting in an election at which a candidate for Federal office is to be elected.

Mr. President, the potential harrassment of State election officials contained in this section is unlimited. The language simply provides that the custodian of the records and papers required by the title to be preserved is subject to a demand by the Attorney General to produce such records and papers at any time. Such demand is not predicated on a violation of any voting rights, an apparent violation of voting rights, or even a reasonable belief that there has been a violation of voting rights. The Attorney General may make repeated demands for the papers or records at intervals limited only by his ability to do so.

Mr. President, I could discuss at great length the technical objections to this section. It is replete with ill-considered language—language which has been written while the advocates were blinded in their zeal for Federal encroachment in a field which is the primary responsibility of the States; language which has been written to sacrifice the rights of the majority and the dignity of the States for political expediency; and, paradoxically, language which would destroy the delicate constitutional balance between the States and the National Government, under the false banner of protecting the constitutional rights of individuals. Because of the profound, basic, constitutional issues involved in the proposed legislation, Mr. President, I shall merely invite the attention of the Senate to the language contained in the section previously referred to, and the patent errors in draftsmanship and lack of legitimate safeguards, and shall proceed to a discussion which transcends the boundaries of sectionalism, partisanship, and—I pray—political advancement.

Mr. President, at the time of the adoption of the Federal Constitution there were only two States which did not have constitutions of their own. These States were Rhode Island and Connecticut. The responsibility of the States for protecting the rights of their citizens in the electoral process was complete. Every aspect of the most important process of democratic society was controlled and determined by each State. Each State determined for itself who was to vote by stipulating the requirements for voting.

An examination of the constitutions of States which had enacted a constitution at the time of the formation of the National Government discloses varying limitations on the right to vote. There was no State which allowed all citizens to vote. Some of the various qualifications were quoted by the Supreme Court in *Minor* v. *Happersett* (21 Wallace 162) as follows:

Thus, in New Hampshire, "every male inhabitant of each town and parish with town privileges, and places unincorporated in the State, of 21 years of age and upwards, excepting paupers and persons excused from paying taxes at their own request," were its voters; in Massachusetts, "every male inhabitant of 21 years of age and upward, having a freehold estate within the Commonwealth of the annual income of 3 pounds, or any estate of the value of 60 pounds"; in Rhode Island, "such as are admitted free of the company and society" of the colony; in Connecticut, such persons as had "maturity in years, quiet and peacable behavior, a civil conversation, and 40 shillings freehold or 40 pounds personal estate," if so certified by the selectmen; in New York, "every male inhabitant of full age who shall have personally resided within one of the counties of the State for 6 months immediately preceding the day of election * * * if during the time aforesaid he shall have been a freeholder possessing a freehold of the value of 20 pounds within the county, or have rented a tenement therein of the yearly value of 40 shillings, and been rated and actually paid taxes to the State"; in New Jersey, "all inhabitants * * * of full age who are worth 50 pounds, proclamation money, clear estate in the same, and have resided in the county in which they claim a vote for 12 months immediately preceding the election"; in Pennsylvania, "every freeman of the age of 21 years, having resided in the State for 2 years next before the election, and within that time paid a State or county tax which shall have been assessed at least 6 months before the election"; in Delaware and Virginia, "as exercised by law at present"; in Maryland, "all freemen above 21 years of age having a freehold of 50 acres of land in the county in which they offer to vote and residing therein, and all freemen having property in the State above the value of 30 pounds current money, and having resided in the county in which they offer to vote 1 whole year next preceding the election"; in North Carolina, for Senators, "all freemen of the age of 21 years who have been inhabitants of any one county within the State 12 months immediately preceding the day of election, and possessed of a freehold within the same county of 50 acres of land for 6 months next before and at the day of election," and for members of the house of commons, "all freemen of the age of 21 years who have been inhabitants in any one county within the State 12 months immediately preceding the day of any election, and shall have paid public taxes"; in South Carolina, "every free white man of the age of 21 years, being a citizen of the State and having resided therein 2 years previous to the day of election and who hath a freehold of 50 acres of land, or a town lot of which he hath been legally seized and possessed for at least 6 months before such election, or (not having such freehold or town lot), hath been a resident within the election district in which he offers to give his vote 6 months before such election, and hath paid a tax the preceding year of 3 shillings sterling toward the support of the government"; and in Georgia, "such citizens and inhabitants of the State as shall have attained to the age of 21 years, and shall have paid tax for the year next preceding the election, and shall have resided 6 months within the county."

Mr. President, the voting process has always been the primary responsibility of the several States of the Union. This fact was recognized by the framers of the Constitution. Section 4 of article I provides that the legislatures of the States shall prescribe the times, places, and manner of holding elections, although the Congress was granted the authority to make or alter such regulations in some respects. Constitutional provisions relating to elections are as follows:

Article I, section 2, clause 1:

The House of Representatives shall be composed of Members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

Article I, section 4, clause 1:

The times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

Article I, section 5, clause 1:

Each House shall be the judge of the elections, returns, and qualifications of its own Members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent Members, in such manner, and under such penalties as each House may provide.

Article II, section 1, clause 2:

Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

Amendment XIV, section 2:

Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being 21 years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens 21 years of age in such State.

Amendment XV, section 1:

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

Section 2:

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

Amendment XVII:

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointment until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election of term of any Senator chosen before it becomes valid as part of the Constitution.

Amendment XIX:

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

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

Advocates of the present section evidently rely on two constitutional provisions in urging this body to enact legislation forcing State election officials to preserve records and papers for inspection by the Attorney General of the United States. The first of these is article I, section 4, clause 1, which provides that "the times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the place of choosing Senators." Are the proponents of this section urging a construction of the term "manner" which would result in consequences so serious, so far-reaching, and so pervading, so great a departure from the structure and spirit of our institutions? The pertinency of this question is accentuated because the effect of such a construction is to fetter and degrade the State governments by subjecting them to the arbitrary and unlimited demands of a Federal Attorney General in the exercise of powers of the most ordinary and fundamental character heretofore universally conceded to the States. In fact, it radically changes the whole theory of the relations of the State and Federal Governments to each other and of both these Governments to the people.

There are those who would say, "Well, why shouldn't State election officials be required to preserve the voting records of Federal elections?" Mr. President, the inquiry demonstrates both a lack of knowledge of the language contained in the bill and an understanding of the electoral process. A perusal of the section involved will disclose that the requirement of preservation of records and papers is not limited to those relative to the election of Federal candidates. On the contrary, Mr. President, it includes all records and papers relative to any application, registration, payment of poll-tax, or other act requisite to voting in any election, limited only by the requirement that one of the persons to be voted for was a candidate for election to Federal office. It may be an election in which there are candidates for election to dozens of State or county offices and a candidate for the House of Representatives. Nevertheless, to the minds of the proponents of this bill, it is a Federal election, justifying the imposition of a requirement of constant investigation of all records, and papers in the entire election which relate to any application, any registration, payment of any poll-tax, or any other act requisite to voting in the election.

Mr. President, section 4 of article I of the Constitution was bitterly attacked by the State legislatures of 1787–89, because of its alleged possible use to destroy the rights of the States to determine qualifications for voting and deteriorate its primary responsibility in the electoral process. In defense against this argument, the proponents of section 4 assured the respective State governments that it was not the intention of the controversial section to undermine the rights of the States in respect to elections. Mr. Hamilton asserted in "The Federalist":

The truth is that there is no method of securing to the rich the preference apprehended, but by prescribing qualifications of property either for those who may elect, or be elected. But this forms no part of the power to be conferred upon the National Government. Its authority would be expressly restricted to the regulation of the times, the places, and the manner of elections.

The history of the times indicates that should there have been any intention to allow the National Government to impose the type of restrictions on State election officials which are sought to be imposed by the present section of the bill which is now before us, the Constitution would not have been ratified. Due to the present centralization of government in Washington, and the failure of the States to assert their duties, responsibilities, and perquisites, it is difficult for some to imagine that prior to the adoption of the instrument which is presently being emasculated by the Congress and the Supreme Court, the sovereignty of the States was complete. There was a general recognition of the fact that the powers to be granted the National Government by means of the instrument known as the Constitution were to be subtracted from the totality of sovereignty which the States then enjoyed. This gave rise to a jealous regard for the powers that were being granted the National Government. This was particularly true in regard to the election process.

The limitations on the powers of Congress have been defined with clarity by the Supreme Court in the case of *Carter* v. *Carter Coal Co.* (298 U.S. 238) in which the Court said:

The general rule with regard to the respective powers of the National and the State Governments under the Constitution is not in doubt. The States were before the Constitution; and, consequently, their legislative powers antedated the Constitution. Those who framed and those who adopted that instrument meant to carve from the general mass of legislative powers, then possessed by the States, only such portions as it was thought wise to confer upon the Federal Government; and in order that there should be no uncertainty in respect to what was taken and what was left the national powers of legislation were not aggregated but enumerated—with the result that what was not embraced by the enumeration remained vested in the States without change or impairment. Thus, "when it was found necessary to establish a national government for national purposes," this Court said in *Munn* v. *Illinois* (84 U.S. 113, 124), "a part of the powers of the States and the people of the States was granted to the United States and the people of the United States. This grant operated as a further limitation upon the powers of the States, so that now the governments of the States possess all the powers of the Parliament of England, except such as have been delegated to the United States or reserved by the people." While the States are not sovereign in the true sense of that term, but only quasi sovereign, yet in respect of all powers reserved to them they are supreme—"as independent of the General Government as that Government within its sphere is independent of the States." And, since every addition to the legislative power to some extent detracts from or invades the power of the States it is of vital moment that, in order to preserve the fixed balance intended by the Constitution, the powers of the General Government be not so extended as to embrace any not within the express terms of the several grants or the implications necessary to be drawn therefrom.

It is no longer open to question that the General Government, unlike the States, possesses no inherent power in respect of the internal affairs of the States and emphatically not with regard to legislation. The question in respect to the inherent power of that Government as to the external affairs of the Nation and in the field of international law is a wholly different matter which it is not necessary now to discuss.

Mr. President, it has been said that it is the duty of the Congress to insure that the rights guaranteed under the 15th amendment to the Constitution are protected. The first section of this amendment provides:

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

Section 2 provides:

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

The proponents of this section would rely upon this constitutional provision to justify the invasion upon the rights of the States to conduct elections.

However, the Supreme Court has said:

Beyond doubt the 15th amendment does not take away from the State governments in a general sense the power over suffrage which had belonged to these governments from the beginning, and without the possession of which power the whole fabric upon which the division of State and National authority under the Constitution and the organization of the Nation and the State would fall to the ground. In fact, the very command of the amendment recognizes the possession of the general power by the State, since the amendment seeks to regulate its exercise as to the particular subject with which it deals (*Guinn* v. *United States* (238 U.S. 347)).

If the advocates of this legislation rely on the 15th amendment for a basis

of authority for the enactment of a section requiring the preservation of voting records and papers, such purported authority under objective analysis will be found wanting.

The 15th amendment confers voting rights on no one. There is no new right of suffrage contained in the language of the amendment. On the contrary, it has been expressly recognized by the Supreme Court that the 15th amendment did not disturb the axiom that the right to vote in the States is derived from power reserved to the States (*United States* v. *Cruikshank* (92 U.S. 555)). It is the right of exemption from the prohibited discrimination that derives from the power of the United States and specifically the 15th amendment.

Mr. President, how can the affirmative language of the section requiring the preservation of voting records be justified under the 15th amendment, when the language is in one way predicated on the finding that the right to vote is being "denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude"? The existence of this fact is a condition precedent to the action of Congress under the 15th amendment. Are we to assume that in every election in the United States at which a candidate for President, Vice President, Presidential elector, Senate, or Member of the House of Representatives is to be voted for that such a violation is now occurring or has in the past occurred? Mr. President, that is an assumption which is an affront and source of degradation to every sovereign State of this Union. It is an assumption which has no foundation in fact. It is an assumption which ignores every precept of Anglo-American jurisprudence. Even if the States of the Union were on trial—which most assuredly is not the case—there would be a presumption of innocence of the accused crime. But no such presumption has been extended to the States in this instance.

Mr. President, the charge has been repeatedly made that there are rank violations of voting rights throughout the South. There is no factual basis for this charge. For the most part, the report of the Civil Rights Commission draws its conclusion from a compilation of statistics comprised primarily of census figures on the proportions of each race living and voting in each particular county or State. Mr. President, those of us who are familiar with the situation from personal experience see this report of the Commission as proof of the fact that statistics can be made to lie. At this point, I would like to remind the Senate that although the Civil Rights Commission received voting complaints from 29 counties in 8 States, not one was from the State of South Carolina. I would also like to mention in this connection that at least two of those eight States were border States, and another was the State of New York.

Mr. President, not only has the South been judged guilty in this matter without any facts to substantiate the findings, but, indeed, the entire philosophy of those who support this legislation is impregnated with the basic idea that white southerners are not just second-class citizens, but, apparently, should have no rights whatsoever. This attitude was demonstrated thoroughly in this body in 1957 and it was reflected—even magnified—in the attitude of the Civil Rights Commission. This is more than amply illustrated in the Commission's own words when, in outlining the procedure to be used with regard to voting complaints, the Commission said, and I quote from page 69 of the report:

> And under no circumstances would the names of complainants or any identifying details of the complaints be revealed.

In other words, Mr. President, those accused of violating the United States and State laws making it a criminal offense to interfere with voting were not even to know the name of their accuser or the nature of the charge, much less to have the right to face their accuser and cross-examine him. The only encouraging note to be found in this whole sorry mess is the fact that a three-judge Federal court had the courage, the knowledge, and the respect for the Constitution to declare the procedures of the Civil Rights Commission unconstitutional.

Mr. President, the Congress has enacted extensive legislation concerning elections in the past. The first comprehensive Federal statute dealing with corruption in elections was adopted in 1870, when the Enforcement Act—16 Stat. 44—outlawed every type of fraudulent and corrupt practice in connection with elections, specifically forbidding false registration, bribery, illegal voting, making false returns of votes cast, interference in any manner with officers of election, and the neglect by any such officer of any duty required of him by State or Federal law. The laws were held invalid in part in *United States* v. *Reese* (92 U.S. 214) in 1876. The Congress recognized that these laws were a violation of the responsibilities of the States by repealing this legislation in 1894. The discussion which took place in the Congress during that period could be most enlightening and informative to the proponents of the present legislation.

Of particular interest also, is the report from the Committee on Privileges and Elections of the House of Representatives, in reporting H.R. 2331, which repealed the statutes relating to the extensive supervision of the electoral process. The historical significance of this document is great, and the House report contains language which is equally applicable to the issue which is now before this body. For this reason, I deem it advisable to quote the committee report:

> The Committee on Election of President and Vice President and Representatives in Congress, to whom have been referred various House bills providing for the repeal of all statutes relating to supervisors of election and special deputy marshals at the polls, beg leave to report back to the House, House bill No. 2331, with an amendment thereto, and to recommend its passage.
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> The bill provides for the repeal of section 2002 of the Revised Statutes of the United States relating to the bringing of armed troops to the place of election, and of sections 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, and 2020 relating to the appointment, qualifications, powers, duties and compensations of supervisors of election; and also for the repeal of sections 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, and 2031 relating to the appointment, qualifications, powers, duties, and compensation of special deputy marshals.
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> Also for the repeal of sections 5506, 5511, 5512, 5513, 5514, 5515, 5520, 5521, 5522, and 5523 relating to crimes and their punishment; and also a part of section 643 as follows: "Or is commenced against any officer of the United States on account of any act done under the provisions of title 26, 'the Elective Franchise,' or on account of any right, title, or authority claimed by such officer or other person under any of the said provisions."
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> Section 2002 declares in effect that no military or naval officer shall bring any troops or armed men to the polls unless "it be necessary to repel the armed enemies of the United States, or to keep the peace at the polls." This act was passed in February 1865, during the war, and the object and purpose for which it was enacted must have long since passed away. Article IV, section 4, of the Constitution is as follows: "The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the Executive (when the legislature can not be convened) against domestic violence."
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> It is evident from this clause that the United States must guarantee to every State in the Union protection against "invasion." In order to do this it may be necessary for the Government to employ its Army; but it is difficult to see, by any stretch of the imagination, for what purpose the enemies of the United States would invade a polling precinct in any State in the Union. The armed enemies of the United States may at any time invade her soil and destroy the property of the people of the United States, and for the purpose of rapine and plunder may invade her borders, but it is difficult to see why the armed enemies of the United States should invade a polling precinct within a State. Where domestic violence has outrun State control, and the State government is unable to protect itself, this provision of the Constitution provides a direct and specific mode of action, on the application of the legislature of the State to the Government of the United States, or of the Executive if the legislature cannot be convened. Domestic violence may arise from a failure to keep the peace at the polls, and should such a state of things arise the remedy is plain.
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> But this section 2002 provides an extra-constitutional mode of keeping the peace at the polls, in that it lodges an implied discretion in the military or naval officer of determining when it is necessary to repel the armed enemies of the United States, or to keep the peace at the polls; whereas the determination of that question under the Constitution, is left with the legislature of the State, or, where it cannot be convened, with the Executive. Surely no officer of the Army or of the Navy should be left to determine when it is necessary to bring troops to the polls, and the Constitution has impliedly prohibited it in the provision just referred to. This section 2002 was a war measure. Twenty-eight years after it was enacted, and 28 years after the cessation of hostilities, as the last vestige of war legislation on this subject, it should be wiped from the statute books forever.
>
> The sections from 2005 up to and including 2020, relating to the appointment, qualification, powers, duties, and compensation of supervisors of election, and sections 2021 up to and including 2031, relating to the

appointment, qualification, powers, duties, and compensation of special duty marshals, and the remaining sections up to and including 5023, may all be considered together, as they embrace and constitute the same principle and kindred subjects.

The appointment of supervisors presumes something to supervise and the right of supervision. These sections relate to the right of supervisors and deputy marshals to supervise the election of Representatives in Congress; and the initial point, therefore, is as to the right of the United States to supervise the election of Members of Congress, and if the right exists whether it is proper for them to do so.

This subject has been discussed before in Report No. 1882, part second, page 5, 1st session of the 51st Congress, as follows:

"The power is sought in the fourth section of article 1 of the Constitution, which is as follows:

" 'The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.' "

We shall invoke the simple method of construction laid down by the writers, of seeking first, from the words themselves, their intrinsic meaning, and then invite the testimony of those who made them as to their meaning and their intent in making them, and, finally the construction put upon them by Congress itself and recognized authorities on the Constitution.

We notice, first that "the times, places, and manner of holding elections," etc., is primarily confided to the legislature of each State; secondarily, it is given to the Congress.

The language itself and the arrangement of the two clauses show this:

"The times, places, and manner, etc., shall be prescribed by the legislature of each State.

"But the Congress may, by law, at any time make or alter, etc."

The first is original and primary, the second is permissive and contingent. The legislatures and Congress cannot both have original and primary power to act on the same subject at the same time. Such a conflict would never have been sanctioned. Nor can we believe that the men who drafted this section intended to distinguish it from every other in the Constitution in granting to two distinct and separate authorities coequal power over the same subject at the same time. Nor can we conceive a greater absurdity than the grant of plenary power to the legislatures of the States in the first clause of the section, only to be abrogated and annulled in the second clause of the same section.

We cannot believe that the intelligence which framed that great instrument, careful in avoiding any conflict that would probably arise between the State and Federal authorities (for that hour was resonant with jealousies of power), deliberately placed this power into two distinct hands to be exercised, it may be, at the same time and in different ways; and it is equally improbable that the power given the legislatures of the States, as the authority best suited in the minds of the makers of the Constitution, to provide "the times, manner, and places of holding," etc., was intended, without reason or cause, to be taken from them and arbitrarily assumed by Congress; and that too, when there had been no failure on the parts of the States to provide the necessary machinery and no impropriety in the machinery provided.

We conclude, therefore, that the obvious and plain meaning of the section under discussion is that the legislature of each State should have the primary authority to prescribe "the times, places, and manner of holding elections, etc.," and that Congress should have such power ultimately. When? For what cause? What circumstances or conditions prevailing in the States shall be sufficient to cause a forfeiture of this right in the legislatures of each? This section and the Constitution are silent upon this subject; but the history of the adoption of the Constitution and the contemporaneous evidence of those who made it supply the answers.

Of the Original Thirteen States that framed the Constitution seven were outspoken on the subject, while in some of the others there was likewise a strong sentiment against the adoption of the Constitution containing this and other sections.

The language of some of them is most striking and instructive. On the 6th of February 1788, Massachusetts, through her State convention, presided over by the great Revolutionary patriot, John Hancock, ratified the Constitution. In the report of ratification, after expressing the opinion that certain amendments should be made to "remove the fears and quiet the apprehension of many of the good people of this Commonwealth, and more effectually guard against an undue administration of the Federal Government," the following alteration of and provision to the Constitution is suggested:

"That Congress do not exercise the powers vested in them by the fourth section of the first article, but in cases when a State shall neglect or refuse to make the regulations therein mentioned, or shall make regulations subversive of the rights of the people to a free and equal representation in Congress, agreeably to the Constitution."

Not satisfied with the mere suggestion of such amendment, and with a prophetic fear that, if such suggestions were not adopted by the first Congress to assemble under the Constitution, some erring son of this ancient Commonwealth might some day waver in his support of those principles in the Halls of Congress, the convention added this strong language:

"And the convention do, in the name and in behalf of the people of this Commonwealth, enjoin it upon their Representatives in Congress at all times, until the alterations and provisions aforesaid have been considered agreeably to the fifth article of the said Constitution, to exert all their influence, and use all reasonable and legal methods to obtain a ratification of said alterations and provision, in such manner as is provided in the said article."

South Carolina ratified on the 23d of May 1788, with the following recommendation:

"And whereas it is essential to the preservation of the rights reserved to the several States, and the freedom of the people, under the operation of a General Government that the right of prescribing the manner, time, and places of holding the elections to the Federal Legislature, should be forever inseparably annexed to the sovereignty of the several States; This convention doth declare that the same ought to remain to all posterity a perpetual and fundamental right in the local, exclusive of the interference of the General Government, except in cases where the legislatures of the States shall refuse or neglect to perform and fulfill the same according to the tenor of the said Constitution."

New Hampshire ratified June 21, 1788, and made a recommendation in the same language used by the State of Massachusetts.

Virginia, on the 26th of June 1788, ratified with a recommendation in the following words:

"That Congress shall not alter, modify, or interfere in the times, places, and manner of holding elections for Senators and Representatives, or either of them, except when the legislature of any State shall neglect, refuse, or be disabled by invasion or rebellion to prescribe the same."

August 1, 1788, North Carolina ratified, having held out against ratification on account of this and other objectionable clauses. The convention recommended an amendment in the same language as did the State of Virginia.

New York ratified July 26, 1788, and the recommendations of its convention are in some respects the strongest of any on this subject. Before the formal statement of ratification, a declaration of rights is set forth in which, among other provisions, we find:

"That nothing contained in the said Constitution is to be construed to prevent the legislature of any State from passing laws at its discretion, from time to time, to divide such State into convenient districts and apportion its Representatives to and amongst such districts.

"Under these impressions and declaring that the rights aforesaid cannot be abridged or violated, and that the explanations aforesaid are consistent with the said Constitution, and in confidence that the amendments which shall have been proposed to the said Constitution will receive an early and mature consideration, we, the said delegates * * * do, by these presents, assent to and ratify the said Constitution.

"In full confidence, nevertheless, that until a convention shall be called and convened for proposing amendments to the Constitution * * * that the Congress will not make or alter any regulations in this State respecting the times, places, and manner of holding elections for Senators or Representatives unless the legislature in this State shall neglect or refuse to make laws or regulations for the purpose, or from any circumstance be incapable of making the same; and that in those cases such power will duly be exercised until the legislature of this State shall make provision in the premises."

And in accordance with this declaration the convention suggested an amendment to Congress embodying the above idea.

Rhode Island did not ratify until June 26, 1790, and the language of her convention on the subject and the amendments suggested were in almost the identical words of those of the State of New York, only stronger. The above extracts have been made that it might be seen how strong was the feeling on this subject at the time of the ratification of the Constitution, and that the Constitution itself was only finally adopted in the faith and belief of a majority of the States that Congress would never exercise this power except when the States had failed to do so, or from any cause could not do so.

Not alone did the States above enumerated speak out with no uncertain sound but, in the debates in the Pennsylvania Convention to ratify the Constitution, James Wilson, a member of the Federal Convention that framed the Constitution, and a member of the State convention, explained this provision to mean in effect that the States were primarily to act, and Congress only in case of their failure to do so; and the convention recommended an amendment in the following words:

"That Congress shall not have power to make or alter regulations concerning the time, place, and manner of electing Senators and Representatives, except in case of neglect or refusal by the State to make regulations for the purpose; and then only for such time as such neglect or refusal shall continue."

In the 58th number of "The Federalist" Mr. Hamilton discusses this subject and says:

"They [the Convention] have submitted the regulation of elections for the Federal Government, in the first instance, to the local administrations; which in ordinary cases, and when no improper views prevail, may be both more convenient and more satisfactory; but they have reserved to the na-

tional authority a right to interpose, whenever extraordinary circumstances might render that interposition necessary to its safety."

Judge Storey, in his "Commentaries on the Constitution," volume 2, chapter XI, discusses the whole subject and holds that the power will not be exercised by Congress unless "an extreme necessity or a very urgent exigency" should arise (secs. 820, 823, 824, et seq.). (See also 1 Tucker's Black. Comm. App. 191, 192; Curtis on the Constitution, 479, 480.)

We conclude, therefore, that Congress has the power to "prescribe the times, places, and manner of holding elections" for Members of Congress, but that such power is contingent and conditional only, not original and primary.

Under what conditions or upon what contingency?

If we accept the evidence of the States in their State conventions, ratifying the Constitution, and that of the men who made the Constitution, the conditions are—

First. Where the States refuse to provide the necessary machinery for elections; and

Second. Where they are unable to do so for any cause, rebellion, etc.

Mr. Madison, in the Virginia convention, when asked his opinion of this section, said:

"It was found necessary to leave the regulation of these (times, places, and manner) in the first place to the State governments as being best acquainted with the situation of the people, subject to the control of the General Government, in order to enable it to produce uniformity and prevent its own dissolution. * * * Were they exclusively under the control of the State governments, the General Government might easily be dissolved. But if they be regulated properly by the State legislatures, the congressional control will very probably never be exercised."

Mr. John Jay, subsequently Chief Justice of the United States, in the New York convention said, when this clause was under discussion:

"That every government was imperfect unless it had a power of preserving itself. Suppose that by design or accident the States should neglect to appoint the representatives, certainly there should be some constitutional remedy for this evil. The obvious meaning of the paragraph was that, if this neglect should take place, Congress should have power by law to support the Government and prevent the dissolution of the Union. He believed this was the design of the Federal convention."

Again, Mr. Madison says:

"This was meant to give the National Legislature a power not only to alter the provisions of the States, but to make regulations in case the States should fail or refuse altogether" (Madison Papers, vol. 3, 1282).

Has any State refused to provide the necessary election machinery, or is any State unable to do so for any cause, or what "extraordinary circumstances", what "extreme necessity", what "urgent exigency" exists now for the exercise of this power by Congress? None has been suggested, and we confidently assert none can be.

For Congress to attempt to exercise this power now in this bill against the protests of a majority of the States that made the Constitution, and when those States only ratified it upon the faith and assurance that this and other powers would never be exercised except under certain conditions, which have not arisen, is a fraud upon the Constitution that should not be tolerated.

But, conceding for the moment that section 4, article I, gives to Congress the full powers claimed by the advocates of this bill, still it must be construed in the light of the subsequent section (8) of the same article, which declares that Congress shall have power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers." Admit the power to be ample in the Constitution, yet the same authority limits the legislative branch of the Government in the enactment of laws, to such as shall be necessary and proper for carrying into execution the foregoing power. In *Hepburn v. Griswold* (8 Wall. 614), Chief Justice Chase, in defining these words, says the words:

"Necessary and proper were intended to have a sense, to use the words of Justice Story, 'at once admonitory and directory,' and to require that the means used in the execution of an express power should be 'bona fide appropriate to the end.'"

But again, the States for a hundred years and more have provided election laws, appointed officers for their proper execution, and provided the machinery of election. They have prescribed duties for such officers, and have imposed penalties for the failure to discharge these duties. This machinery and these officers, without distinction as to the character of the election, whether it be State or Federal, have the same duties imposed upon them in all essential qualities. With this state of things we find these statutes which are sought to be repealed create officers whose duties it shall be to supervise, scrutinize, and watch every act of the officers of the States. This of itself must create friction, and the history of the country since the enactment of these laws has demonstrated their unwisdom in this respect. The power to guard, scrutinize, and inspect implies the power to correct or prevent that which is scrutinized. The power to supervise implies the power to compel the doing or to prevent the doing of the thing which is the subject of the supervision. How then can the United States, by its supervisors and deputy marshals, supervise an election under a law which it has not enacted or scrutinize the registration (a condition of suffrage in many of the States) when the right of suffrage emanates from the State itself and the State alone can determine it?

The second section of article I of the Constitution declares: "The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature."

This leaves the right of suffrage and the conditions of suffrage in the States. By what authority, then, can a Federal officer, by challenge or otherwise at the polls or on registration day, determine the question of suffrage which the Constitution of the United States has left solely to the States to determine?

Many of these statutes also impose penalties upon the election officers of the States, in the conduct of elections, for a violation of the State laws. Was ever a more monstrous proposition written on the statute books of a free country? The power to make law is a sovereign power. It carries with it the power to punish for the violation of such laws, but the two powers must be coordinate. The power that creates the law can inflict punishment for its violation, but no power can inflict punishment rightfully for the violation of a law which it never made. To attempt it, as has been done in the past, has resulted only in irritation, contention, and criticism of the Government that has proposed it.

The object of legislation should be to prevent conflicts between the State and Federal authorities. These statutes have been fruitful in engendering them. Enacted in Reconstruction times, when it was deemed necessary to carry out those measures, the purpose for which they were framed having happily passed away, we feel that they cannot be too quickly erased from the statute books.

But we regard these statutes as chiefly inimical to the best interests of the people because they are in effect a vote of lack of confidence in the States of the Union. The inference is irresistible that they were enacted because of a lack of confidence in the honesty if not in the ability of the States to conduct their own elections. With such an intention plainly on their face, with what consideration could they be met by the people for whom they were intended except that of distrust and suspicion? Would the U.S. Government suffer less by the prevalence of fraud in elections than the States whose officers we sent to represent it in the Government of the United States? Is fraud in elections any less contemptible because it emanates from the people of the State without Federal interference? Or is it any less dangerous to the people of the States because it lacks Federal supervision?

Let every trace of the Reconstruction measures be wiped from the statute books; let the States of this great Union understand that the elections are in their own hands, and if there be fraud, coercion, or force used they will be the first to feel it. Responding to a universal sentiment throughout the country for greater purity in elections many of our States have enacted laws to protect the voter and to purify the ballot. These, under the guidance of State officers, have worked efficiently, satisfactorily, and beneficiently; and if these Federal statutes are repealed that sentiment will receive an impetus which, if the cause still exists, will carry such enactments in every State in the Union. In many of the great cities of the country and in some of the rural districts, under the force of these Federal statutes, personal rights have been taken from the citizens and they have been deprived of their liberty by arrest and imprisonment. To enter into the details in many cases where citizens have been unjustifiably arrested and deprived of their liberty would be useless in this report. We content ourselves in referring to Report No. 2365 of the 2d session of the 52d Congress on this subject, where many such instances are detailed.

Finally, these statutes should be speedily repealed because they mix State and Federal authority and power in the control and regulation of popular elections, thereby causing jealousy and friction between the two governments; because they have been used and will be used in the future as a part of the machinery of a political party to reward friends and destroy enemies; because under the practical operations of them the personal rights of citizens have been taken from them and justice and freedom denied them; because their enactment shows a distrust of the States, and their inability or indisposition to properly guard the elections, which, if ever true, has now happily passed away; and last, but not least, because their repeal will eliminate the judiciary from the political arena, and restore somewhat, we trust, the confidence of the people in the integrity and impartiality of the Federal tribunals.

The chief proponent of the bill to repeal the then existing election law was Senator James H. Berry, of Arkansas. On December 19, 1893, he delivered one of the finest addresses that I have ever read. I feel that I should share this experience with my colleagues, particularly because the discussion is quite applicable at the present time.

Mr. President, this bill provides for the repeal of section 2002 of the Revised Statutes of the United States, relating to the bringing of armed troops to places of election, and of sections 2005 to 2031, inclusive, relating to the appointment, qualifications, powers, duties, and compensation of supervisors of election and special deputy marshals, and also for the repeal of sections

5506, 5511, 5512, 5513, 5514, 5515, 5520, 5521, 5522, 5523, and a part of section 643, relating to crimes and their punishment. All of these laws which it is now proposed to repeal relate to the supervision of elections by Federal authority.

The power to pass these laws originally is derived, or claimed to be derived, from the following clause of the Constitution of the United States:

"ARTICLE I

"SEC. 4. The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators."

It has long been contended that this clause of the Constitution conferred upon Congress the power only to pass election laws when the States had neglected or refused to act in the premises, and that the laws now in question were not warranted by the provisions of the Constitution. Whether this be true or untrue I do not propose to discuss. The Supreme Court has decided in favor of the constitutionality of these laws, and each Senator will decide for himself whether or not that decision is binding upon him in construing the Constitution, which we have sworn to support in the enactment of all laws.

I propose to advocate the repeal of these laws and the passage of this bill, for the reason that I believe the laws now on the statute book to be vicious in principle and bad in policy, passed for an unjust purpose, and tending in their character to defeat the very object for which it is claimed they were enacted—that is, free and fair elections.

I take it for granted, Mr. President, that each Senator upon this floor is anxious to secure honest elections everywhere, and that each ballot cast by the citizen should be honestly counted, and any assumption upon the part of the Republican Party, the Republican press, or Republican Senators that we desire the repeal of these laws in order that fraud may be perpetrated in elections is unwarranted by the facts, unjust to us, and an insult to all honest men. We are American citizens equally interested with you in the preservation of free institutions, and equally anxious to maintain the purity of elections. The only real question at issue is, can this purity and this fairness be best secured by the General Government or by the several States.

These laws which we seek to repeal are part and parcel of the Reconstruction laws. They were passed soon after the close of the Civil War; passed at a time of great political excitement; passed for the purpose of securing the supremacy of an ignorant race in the Southern States, upon whom the right of suffrage had but recently been conferred; passed for the additional purpose of enabling the Republican Party to retain control of the State of New York and other leading States throughout the North.

If there was ever any excuse for their passage, if there was ever any condition of affairs to justify any man in supporting them, this condition has long since passed away, and there can be no excuse for their retention now.

I do not speak of the period of Reconstruction for the purpose of reviving the bitter passions, prejudices, and contentions engendered by those acts, but that period is intimately connected with the passage of these laws. It is a dark period in American history, a blot upon the name of the Republican Party. It can never be forgotten and ought not to be forgotten. It should serve as a warning not only to us but to those who come after us against the fatal policy of centralization of power in the General Government, against the policy of attempting to exercise by Federal authority that control and direction of local affairs which was intended by the framers of the Constitution to be regulated by the States alone. Its evil effects upon the Southern States and upon the country at large ought to serve as an overwhelming and unanswerable argument for the repeal of the laws connected with it, and all others of a kindred character.

The Senator from Illinois [Mr. Cullom] in a speech made in the Senate a few days ago used the following language:

"I apprehend that no Senator will fail to perceive that this discussion brings us back to the identical question which our friends in the South attempted to settle at Sumter on that April day in 1861, and which reached a final settlement in 1865."

Mr. President, it is most remarkable to me that, whenever we attempt here to correct by legislation any evil which has grown up under Republican rule, we are almost invariably met with the answer that it is a measure which has been settled heretofore by war. When we ask the repeal of laws which pretend to give fair elections, because they are used as an engine of fraud, the Senator from Illinois tells us that this was an issue settled by the war.

When we attempt to modify the tariff law, which levies tribute upon the great body of the people of the United States for the maintenance and protection of a few individuals, the Senator from Oregon [Mr. Dolph] tells us that the war which ended in 1865 was waged for free trade. This question is brought up on every possible occasion whenever the other side seek to perpetrate a fraud at elections under the pretense of protecting the ballot box, whenever they seek to take from the people of this country a large amount of their substance under the pretense of protecting American labor, or whenever they seek to take possession of a small kingdom under the pretext of improving the morals of the queen—in either and all these instances, when objection is made, we are met by the proposition that the people of the South engaged in rebellion and fired on Fort Sumter some 30 years ago. I submit that that is no answer to the proposition.

Mr. President, I deny that this discussion raises any such question. I deny the statement that there is any disposition upon the part of any Senator on this side of the Chamber to raise again the issues which were settled by 4 years of war. The great questions that the contest which began at Sumter in 1861 and ended at Appomattox in 1865 settled were these: First, that no State could secede from the Union or sever its relations with the General Government; and, second, that thereafter neither slavery nor involuntary servitude, except for crime, should exist within the United States.

These we freely concede and have never denied. These were the issues upon which the battle was fought and decided against us. We accepted the verdict in good faith and have never sought to reverse it. The people of the South have never complained either of the conduct of the war or its final result. They entered the contest boldly and fearlessly and throw down the gage of battle to a superior foe. They showed in 4 years of war that they were in deep and deadly earnest, and believed in the principles their fathers had taught them. They displayed a courage upon the field of battle, an endurance under great privations, and a patience in defeat which command the admiration and respect of the civilized world.

When defeat came they accepted its consequences without a murmur, and are today as loyal to the flag of our common country, as solicitous for the honor and glory of this great Republic and for the happiness and prosperity of the people of all the States of this Union as are the people who followed Meade and Hancock at Gettysburg or those who gathered around General Grant at Appomattox.

But if the Senator from Illinois intends to state that the war settled the question that the General Government had the right to control the local affairs and police regulations of the several States, or to state that because we believe that fair and honest elections can be better secured by the States themselves without the interposition of the General Government, that we are seeking to revive the issues of the war, then he misstates the facts of history.

We never complained of the war and its results, but we did complain of the passage of the laws which we now seek to repeal and others of a like character, enacted after the close of the war. They professed to pass these laws, and other Reconstruction laws, in the interest of fair and honest elections, and yet they enabled the Republican Party in the South to perpetrate the most glaring frauds at elections that the history of the Government has ever known. Under governments established by that party under these and other laws passed during that period, fraud and false counting became the rule and not the exception throughout the South.

The will of the people as expressed at the ballot box was habitually overthrown and disregarded, and men were foisted into high places of power and trust whom the people had repudiated at the polls, and these men by their acts of tyranny and shameless robbery perpetrated upon a helpless people cast a stain upon American manhood, and by their own wrongful acts they furnish to us here the strongest evidence that could be presented why all laws that could bring about such a condition of affairs should be taken from the statute book.

The Senator is mistaken when he says that this was an issue settled by the war. The Supreme Court of the United States has decided again and again that the amendments to the Constitution passed soon after the war did not destroy the autonomy of the States, and did not take from them the power to regulate and settle their own local affairs, and every attempt upon the part of the Government to deprive the States of this power and to usurp the functions which properly belong to the States has without an exception resulted in great evil to the country.

For more than three-quarters of a century the times, places, and manner of electing Senators and Members of Congress was regulated and controlled by the States and no laws were passed interfering in any way whatever with this control. During that time the Republic prospered as no country had ever prospered before. Peace and order prevailed everywhere. Frauds in elections, false counting, and illegal voting were of the rarest occurrence, and a charge of that kind made against a party or an individual was sure to excite the public mind and if proven, to bring the party or individual under the condemnation of all the people without regard to political affiliation.

Prior to the advent of the Republican Party in the South, in 1868, I do not think I had ever heard, with one solitary exception in Louisiana, of the use of money in elections or of false counting brought against any party in any of the States of the South, but from 1868 to 1874, under Republican rule in my own State, and I presume it was so in other Southern States, the practice of falsifying election returns became so universal, so widely and well known, that they ceased to excite comment. And yet we find the Republican Party here always posing as the champion of fair elections, ignoring these well known facts and hurling charges of wrongdoing at their political opponents.

When the Reconstruction Acts of 1868 were passed, the whites in the State of Arkansas

largely outnumbered the blacks, and the great and overwhelmingly majority of the whites were in sympathy with the Democratic Party. But when these laws were passed and the right of suffrage conferred upon the Negro the State was infested with a horde of adventurers from the North, men who could obtain neither power nor position in their former abodes, but there under the protection of the troops of the United States they took possession of the State government, framed a constitution and submitted it to the people, and when it was rejected by more than 10,000 majority, they deliberately falsified the returns and declared it adopted.

When the people protested militia forces were organized and swept over a large portion of the State, leaving murdered citizens and burning houses to mark the line of their march. The people were powerless and helpless to protect themselves for the reason that they knew that the U.S. Government was behind those who were controlling the powers of the State government. In the elections of 1870 the same frauds were perpetrated, and they became so shameless and glaring in the election of 1872, after the passage of the laws we now seek to repeal, that actual war ensued in 1874 between the opposing factions of the Republican Party, and by reason of this contest the people were enabled to recover possession of their government.

This will serve to show, Mr. President, something of the different conditions which prevailed under the two systems; the one where the time, place, and manner of holding all elections were regulated by the people of the State, and the other where the General Government usurped the control of elections by the power of United States soldiers.

In the nature of things it will always follow that the purity of elections can be better secured by officials appointed by the State government than those appointed by the General Government. The election officers of the State are invariably selected from the immediate locality where the elections are held. They are as a rule reputable citizens who have homes and families in the country. They know that any fraud upon their part will inevitably blacken their character and lose them the esteem of their neighbors. They know that all such frauds sooner or later produce ill-feeling and tend to destroy the peace and good order of society and threaten the security of their property.

Where the entire responsibility rests upon them, local pride will be a strong restraint upon any inclination they may have to falsify the returns. They know that it is absolutely impossible that practices of this character can be carried on to any great extent without detection, and however strong a partisan a man may be, it is only the basest of men who would be willing for their neighbors to know that they had deliberately stuffed a ballot box or falsified a return.

On the other hand, officers appointed by the Federal courts, supervisors and deputy marshals, do not bear the same responsibility to the local authorities and to the immediate community where the election is held as would judge of election and deputy sheriffs selected by the authority of the State government. The Federal courts are comparatively few in number, and the presiding judge cannot have an intimate acquaintance and knowledge of men in every portion of the State, and therefore do not have it in their power to make the best selections for these officials. And the same may be said of the marshals of the United States, whose authority extends over many counties, while that of the sheriff is confined to the county in which he resides.

These, it seems to me, are unanswerable reasons why the power to hold and supervise elections for all officials, including Members of Congress, should be conferred upon the States themselves and not the National Government. While these laws which it is now proposed to repeal remain upon the statute book there is something of a divided responsibility and a divided control, which in the very nature of things produce jealousies, suspicions, and antagonisms which are liable at any time to bring about conflicts between the authority of the General Government and that of the State, and which in many instances will tend to defeat the will of the people as expressed at the polls.

Supervisors and deputy marshals appointed by the Federal authority to overlook and direct State officials in the discharge of their duty carries with it a suspicion of the integrity of the State officials, and tends to diminish the causes that induce men to do right for the sake of right, and to destroy that confidence and respect which all good citizens should have toward the officers of both the State and Federal Governments. A man is far more likely to be honest when he is trusted and placed upon his honor, and where he will get full credit for his good deeds, than where he is placed under suspicion and supervised by the officers of the General Government.

The Senator from Illinois says that these laws in no way influence or affect the election of State officers, but relate only to Members of Congress. While this is true on the face of the laws it is not true in point of fact.

In those States where the Members of Congress are elected at the same time and in the same place as the State officers, in every State where this condition prevails Republican supervisors and Republican deputy marshals have almost invariably used their office to control and influence the election not only of Members of Congress, but of State officers, also, and for this reason many of the States have refused, and very properly refused, to permit the State elections to be held at the same time and place.

Throughout the South wherever and whenever these supervisors and deputy marshals have been appointed they have had a large and controlling influence with the colored population. With many of these ignorant citizens the man who holds power from the General Government is regarded as all powerful and one whose wishes cannot be safely disregarded, and that he is a kind of guardian for them, and has, to a certain extent, the right to direct how they shall cast their ballots; and those who have been appointed supervisors and deputy marshals in my State, at least by Republican judges and Republican marshals, have not hesitated to use this power and this influence on behalf of Republican candidates.

The chief supervisor in Arkansas today is Judge John McClure. The people throughout the State almost universally believe that he was perhaps more largely responsible for the frauds upon the ballot boxes which were committed from 1868 to 1874 than any other one man in the State. He has, since he has held the office of chief supervisor, used his power in every election to harass and annoy the election officers of the State in every possible way. He secured the appointment under President Harrison of assistant or special district attorney for the eastern district of Arkansas, and through this power and that of chief supervisor and under a Republican district judge succeeded in having indictments preferred against many of the best citizens of the State.

The prosecution and trial of these causes cost the Government of the United States many thousands of dollars, and notwithstanding it was a Republican judge and district attorney, and a majority of Republican jurors, nearly all of these parties were acquitted; and in the few cases where convictions were secured it was for some technical violation of the law where no fraud had been committed or intended, and where the result was in no way changed, and as I now remember, not a single man indicted was shown to have committed actual fraud in a single precinct within the State.

Laws that can be thus used ought to be repealed. They can do no good and they produce much evil.

Just preceding the election of 1890 a deputy marshal in the State of Arkansas, accompanied by a large posse which had been taken from the city of Little Rock, went into the county of Lee under pretext of summoning witnesses to attend the Federal court, and yet they showed by their acts that it was their sole object and purpose to frighten and intimidate the Negroes who had expressed a determination to vote the Democratic ticket. Written communications were distributed amongst the colored people commanding them to go to the polls and vote for the Republican candidate for Congress.

Mr. President, laws under which such men as our chief supervisor can be clothed with such power and which can be used for such purposes can be productive of no good. We want them abolished and we want our chief supervisor abolished with them; and because we thus seek to correct existing evils we do not think it is fair to charge us with seeking to reopen issues that were settled by the war. If fair and honest elections cannot be secured by trusting the people of the several States then they cannot be secured at all.

The whole structure of our Government is founded upon the theory that the great body of the people are honest, and if the time should ever come when the people are corrupt then the Government will fall; and if the people of any State cannot be trusted to conduct their own elections then no kind of force used by the General Government will suffice to produce an honest result. The whole history of the Government shows that it is better to trust the people of the States, to permit them to control their own local affairs in their own way. Such was the intention of the framers of the Constitution, and every attempt to turn from their teachings has proven disastrous to our institutions.

These are the principal reasons why I favor the passage of the present bill, and I confidently believe that time will show that complaints of fraud in the election of Members of Congress will be far less numerous when this power is entrusted entirely to the people of the several States of this Union.

Mr. President, it is apparent that with the presentation of the instant bill to the Senate for consideration, the issues which confronted the Congress in 1894 are once again revitalized. Sixty-five years ago the Congress determined that a scrutinization of elections was an indignity to the States; that legislation which allowed the Federal Government to insert itself into the electoral process under the guise of protecting civil rights was a proclamation by the Congress of the United States; that the States of which this Union is composed are unfit to be trusted with the most important governmental function of all—that is, the conduct of elections.

Aside from the indignity which is to be put upon the States by this legislation—a degradation of a self-governing community—there is the practical result that the intrusion into elections by the Attorney General and his representatives is an unwarranted assumption of superiority and supervision on the part of the Federal Government and of inferiority on the part of the States.

These facts were recognized 65 years ago, Mr. President, and Congress in its wisdom repealed the Enforcement Act and left the primary responsibility of

the conduct of elections, and the enforcement of laws protecting the right to vote, within the domain of the States. And thus, only 25 years after the ratification of the 15th amendment it became apparent that it was not the purpose of that amendment to serve as a wedge into the electoral process. The considerations which mitigated in favor of repeal of these laws in 1894 have grown and strengthened in persuasiveness with the passage of time. If it was thought unwise, unnecessary, and unconstitutional to provide Federal supervision of elections in 1894, it is infinitely more unwise, unnecessary, and equally unconstitutional to do so today.

Mr. President, I appeal to the Members of this body to reject the provisions of the pending legislation, and with it the section which would serve as a proclamation by the Congress of the United States that the States which compose this Union, and which were the primal factors in creating this Government, are not qualified for, and not fit to be trusted with, the most important governmental function of all—the conduct of elections.

Mr. President, I, for one, decline to accept the report of the Civil Rights Commission as persuasive that we should now ignore the most basic principles of our federated system, and I consider the right of the States to control their own elections to be a cornerstone of our federated system. At this point let me clearly affirm that I can find no justification or excuse for denying the right to register and vote to any person who legitimately qualifies under State laws controlling the composition of the electorate. By this affirmation I do not wish to imply that I agree with or indorse unqualifiedly the conditions or lack of conditions for suffrage in any given State. Indeed, one could not honestly indorse all of the State laws, for they differ materially. For example, it is my understanding that in the State of Florida there is no requisite under State law that a person either possess a given level of formal education or read and write English in order to enjoy the right of the ballot. Thus, for instance, the substantial Puerto Rican population in the State of Florida enjoys the right to vote. By comparison, the other States in the Union which has a most substantial Puerto Rican population, and I refer to the State of New York, does impose as a condition of suffrage that a person must read and write English. According to the Civil Rights Commission, this condition of suffrage in New York denies the ballot to substantial numbers of Puerto Ricans living in New York City, and this assertion of the Civil Rights Commission should be extended the degree of credibility to which each individual is personally disposed after scanning the results of their entire work. Although I might not agree with the conditions of suffrage imposed by either Florida or New York, were I fully conversant with all of the local factors which must be considered in formulating their conditions of suffrage, I recognize first that their problems are probably as divergent as their voting requirements; and, second, that each of them has, as has every other State, as a part of its inherent sovereignty the exclusive right to determine for itself what conditions of suffrage are best suited to accomplish the desired democratic republican form of government when generally applied as required by the U.S. Constitution.

The perversion of State voting laws and even the flagrant violation of voting laws have not been a rarity in our history, and most assuredly has not been confined to situations arising from racial differences. Stories of graveyard and multiple voting are almost so common as to approach triteness. Fortunately, such instances have usually been localized and isolated to the extent that irreparable harm has been avoided by resorting to constitutional laws, both Federal and State, which exist in great number for the specific purpose of preserving the rights of the electorate inviolate.

The instances of irregularities which the Civil Rights Commission found in the South—and I use the broader term "found" rather than the much narrower term "substantiated," advisedly—were also isolated and localized, and are being or would be corrected in due time in accordance with due process prior to the advent of irreparable harm.

I do not endorse the irregularities substantiated any more than I can endorse the excesses committed under the pretext of remedying them. I can, however, as one conversant with the source and nature of agitation from outsiders and the Federal Government, which largely inspired the irregularities, understand the sentiments which prompted the people to commit them.

In the first place, there is no need for this proposal on the statute books. As a result of congressional action in 1957 the Attorney General of the United States has been empowered to bring free of charge a suit in the name of the United States to protect and to enforce the voting rights of any person who is subjected to discrimination resulting in a deprivation of the right to vote. This remedy does not stand by itself by any means. There are innumerable other remedies both civil and criminal, enforcible in both State and Federal courts, to protect the right of any qualified citizen to vote. There are now on the books almost every conceivable protection and device against discrimination in matters pertaining to voting which are within the bounds of constitutionality, and, for that matter, some which, in my opinion, go beyond the boundaries of constitutionality.

Mr. President, I am the first to admit that most of the remedies which now exist involve some time delay in their utilization, and this is particularly true of those which fall clearly within the boundaries of constitutionality.

The substantive rights of both groups and individuals under our form of government are no better and no safer than the degree of protection afforded them through the procedural right of due process. If the procedural due process involves one element above all, it is time. Time is the very essence of a substantial portion of our due process guarantees.

The deliberate action which is built into both our body politic and our judicial machinery have traditionally been the target of abuses by zealots in all fields. These zealots, devoid of patience and robbed of objectivity by the emotions which replace their reason, are by definition incapable of understanding or of appreciating the overwhelming advantages which outbalance by far the inconveniences incurred through the lapse of time essential to deliberative action. Unquestionably, a dictatorship is capable of speed more responsive to events than a republican form of government. Indeed, a persuasive argument can be made that a dictatorship has the inherent capability of a higher degree of efficiency than has a republican form of government. Fortunately, individual freedom has always carried greater weight in the minds and hearts of a large majority of Americans at all times than either speed or efficiency or the combination of them. Experience has proven that the maximum degree of speed and efficiency are incompatible with the continuance of individual liberty.

It is the time factor involved in procedural due process, Mr. President, which apparently is the primary source of irritation to those who seek additional and excessive laws in the voting field. The only argument advanced by the proponents of such additional laws which, in my opinion, has any substance is to the effect that all desirable ends cannot be accomplished immediately—if not yesterday. If these same people had lived in an earlier day, their frustrations would have stemmed from the fact that Rome could not be built in a day.

I would remind by zealous colleagues that even their sociological champions in this field limited their zeal by the phrase, "All deliberate speed." Yes, the Supreme Court Justices, who need take second place to no one in their zeal for so-called civil rights, were constrained when considering the time element to recognize the necessity for deliberativeness.

As an example, Mr. President, of the pitfalls encountered when concern for speed overshadows consideration for due process guarantees, I should like to refer briefly to one of the constitutional defects apparent in title VI.

In his testimony during the brief period in which the Judiciary Committee was required to consider this legislation, the Attorney General testified with respect to title VI that it had as its constitutional basis the 15th amendment of the Constitution. Mr. President, as is well known by Members of this body that particular section is as follows:

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

Mr. President, as any student of constitutional law knows, the language of the section is in negative term. This particular amendment, the legitimacy of which is open to serious question, in no way justifies an affirmative course of action set forth in legislation by Congress. Any legislation which seeks to justify its existence must do so on two grounds.

First, a prudent Congress must be convinced that there exists evidence that the right of citizens of the United States to vote is being denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude. Second, the legislation must assume the character of negating this discrimination. In other words, Mr. President, the legislation must be negative in character, as opposed to a positive approach or affirmative course of action. This has been summarized in 18 American Jurisprudence, elections, page 26, paragraph 8, as follows:

The power of Congress to legislate at all upon the subject of voting at State elections, rests upon the 15th amendment. The legislation authorized by this amendment is restricted. It extends only to the prevention by appropriate legislation of the discrimination which is forbidden by the provision. Congress has no power to punish the intimidation of voters at purely State elections where the conduct complained of is not grounded upon race, color, or previous condition of servitude.

Prior to the adoption of the 14th and 15th amendments, the field of voting insofar as State elections were concerned was reserved exclusively to the several States. The adoption of these amendments in no way granted the right to vote to anyone. The 15th amendment prescribed that the States and the Federal Government could not use race, color, or previous condition of servitude as a qualification. When these three factors do not serve as the basis for denying a citizen the right to vote, there is no legislation which can be enacted by the Congress under the 15th amendment to assure that this citizen or citizens shall vote. It is on the basic constitutional principle that I challenge the constitutionality of title 6 of H.R. 8601. The pertinent principles of title 6 are as follows:

In any proceeding instituted pursuant to subsection (c)—

That is, of the Civil Rights Act of 1957—

in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a), the court shall, upon request of the Attorney General and after each party has been given notice and the opportunity to be heard, make a finding whether such deprivation was or is pursuant to a pattern or practice—

The following sentence in title VI is of particular interest as to the constitutionality of this section:

If the court finds such pattern or practice, any person of such race or color resident within the affected area shall, for 1 year and thereafter until the court subsequently finds that such pattern or practice has ceased, be entitled, upon his application therefor, to an order declaring him qualified to vote, upon proof that at any election or elections (1) he is qualified under State law to vote, and (2) he has since such finding by the court been (a) deprived of or denied under color of law the opportunity to register to vote or otherwise to qualify to vote, or (b) found not qualified to vote by any person acting under color of law.

It is at once apparent that the language of this legislation does not meet the requirements for legislative provisions of the 15th amendment. The only requirement stipulated in this particular provision to require the State to register the applicant is that he shall have been a member of the same race as the persons involved or for whom the original suit was instituted. A perusal of the section will reveal that there is no requirement that the person shall have been discriminated against on account of race or color. The system embraced within the provisions of title 6 is an affirmative process whereby the Federal Government undertakes to pass on the qualifications of a citizen who is not required to have been discriminated against on account of race or color.

Mr. President, an amazingly similar corollary may be drawn between this section and the statute which was before the circuit court of appeals in Karem against United States. In that case the court was called upon to pass upon the constitutionality of 18 U.S.C. 51 which had for its objective the punishment of all persons who conspire to prevent the free enjoyment of any right or privilege secured by the Constitution or laws of Congress, without regard to whether the persons so conspiring are private individuals or officials exercising the power of the United States or of a State, and which did not draw any distinction between a conspiracy directed against the exercise of the right of suffrage based upon race or color.

It is obvious that the state of facts existent in the Karem case is not dissimilar from the situation presented by the language of title 6, which I have previously quoted. It is patent that this legislation is not appropriate for the enforcement of the 15th amendment.

Mr. President, this legislation derives its innumerable defects by virtue of the fact that the normal legislative process has been ignored and abandoned in its consideration. The violence to normal procedures in both Houses of Congress has in turn resulted from the fact that the motives prompting the consideration of this legislation are not based on need, or even demand, but rather on political expediency. This is an election year. The minority bloc votes in the country have for a number of years exercised, or at least have claimed to exercise, such a major influence on national elections that both parties now seem to think that they must bait their voting hooks with a lure of so-called "civil rights" legislation. In selecting the lure, there seems to be a partiality for the extreme. The need for protection of Constitutional safeguards and due process pales into oblivion at the prospect of landing, by fair means or foul, the minority bloc vote. Apparently, no holds are barred.

I implore Senators to control their emotions and let reason prevail for a time. In the years since our Republic was founded, many candidates, office holders, and even political parties, have appeared on the public scene, performed or failed in their functions, and have disappeared. The impression they made, and their contributions to, or detractions from, the liberties and well-being of the American citizens have, fortunately, for the most part, accomplished little change in the concepts embodied in the Constitution which guarantee a continuation of liberty in the United States. The Constitution, however, has from its origin remained on the whole inviolate in the basic safeguard of American liberty. The candidates and office holders in this election year of 1960, and possibly even the political parties now existing, will also pass from the political scene. Let us not, therefore, as an expedient for temporary political gain, and relatively short-lived political power, destroy the very political framework within which we seek to exercise the responsibilities of office, and thereby surrender the American citizens to despotism.

Mr. President, it is my sincere hope that Senators will reflect well before they cast their votes on this measure. The Constitution of the United States is the greatest bulwark of our Nation. We must rely on the Constitution to protect the individual citizen, to protect the rights of the States, and to guarantee and assure freedom, liberty, and justice under this, the flag of the greatest Nation that was ever brought into being on the face of the earth.

The PRESIDING OFFICER. Under the unanimous-consent agreement the Senator from Illinois [Mr. DIRKSEN] has the floor.

Mr. DIRKSEN. Mr. President, has the distinguished Senator from South Carolina finished his address?

Mr. THURMOND. Yes.

Mr. DIRKSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DIRKSEN. Under my reservation in connection with the motion to table, I think I still have the floor.

The PRESIDING OFFICER. The Senator is correct.

Mr. DIRKSEN. I ask unanimous consent, with the understanding that I reserve my right to the floor, to yield 1 minute to the distinguished Senator from Connecticut [Mr. BUSH].

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

Mr. BUSH. Mr. President, this is an historic occasion. The Senate is about to vote on the proposed Civil Rights Act of 1960. Throughout this debate, I have sought to strengthen the bill in accordance with the recommendations of the President. I regret that those of us who have participated in this effort have not been entirely successful. Nevertheless, I regard the bill as a significant step forward toward our goal of equality before the law for all our people, regardless of race, creed, color, or national origin.

Mr. President, I ask unanimous consent that a statement I have prepared on civil rights legislation may be printed in the RECORD following these remarks.

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

CIVIL RIGHTS—THE REPUBLICAN RECORD

(By U.S. Senator PRESCOTT BUSH)

Senate passage of the proposed Civil Rights Act of 1960 will mark further progress toward full achievement of the ideal of equality before the law, regardless of race,

creed, color or national origin, which has been one of the basic tenets of the Republican Party's philosophy since it was founded by Abraham Lincoln.

Steady forward advances in civil rights have been made since President Eisenhower and his Republican administration took office in 1953, in sharp contrast with the 20 years of stagnation which had preceded.

In 1956, the Republican Party's platform reviewed the progress which was made in the early years of the Eisenhower administration. The section on civil rights, drafted by the committee on resolutions on which I had the privilege of serving as chairman, reads as follows:

"The Republican Party points to an impressive record of accomplishment in the field of civil rights and commits itself anew to advancing the rights of all our people regardless of race, creed, color, or national origin.

"In the area of exclusive Federal jurisdiction, more progress has been made in this field under the present Republican administration than in any similar period in the last 80 years.

"The many Negroes who have been appointed to high public positions have played a significant part in the progress of this administration.

"Segregation has been ended in the District of Columbia Government and in the District public facilities including public schools, restaurants, theaters, and playgrounds. The Eisenhower administration has eliminated discrimination in all Federal employment.

"Great progress has been made in eliminating employment discrimination on the part of those who do business with the Federal Government and secure Federal contracts. This administration has impartially enforced Federal civil rights statutes, and we pledge that we will continue to do so. We support the enactment of the civil rights program already presented by the President to the 2d session of the 84th Congress.

"The regulatory agencies under this administration have moved vigorously to end discrimination in interstate commerce. Segregation in the active Armed Forces of the United States has been ended. For the first time in our history there is no segregation in veterans' hospitals and among civilians on naval bases. This is an impressive record. We pledge ourselves to continued progress in this field.

"The Republican Party has unequivocally recognized that the supreme law of the land is embodied in the Constitution which guarantees to all people the blessings of liberty, due process and equal protection of the laws. It confers upon all native-born and naturalized citizens not only citizenship in the State where the individual resides but citizenship of the United States as well. This is an unqualified right, regardless of race, creed, or color.

"The Republican Party accepts the decision of the U.S. Supreme Court that racial discrimination in publicly supported schools must be progressively eliminated. We concur in the conclusion of the Supreme Court that its decision directing school desegregation should be accomplished with 'all deliberate speed' locally through Federal district courts. The implementation order of the Supreme Court recognizes the complex and acutely emotional problems created by its decision in certain sections of our country where racial patterns have been developed in accordance with prior and longstanding decisions of the same tribunal.

"We believe that true progress can be attained through intelligent study, understanding, education and good will. Use of force or violence by any group or agency will tend only to worsen the many problems inherent in the situation. This progress must be encouraged and the work of the courts supported in every legal manner by all branches of the Federal Government to the end that the constitutional ideal of equality before the law, regardless of race, creed, or color, will be steadily achieved."

In the 84th and 85th Congresses our Republican administration presented comprehensive civil rights bills, of which I was a sponsor. Despite the bitter resistance of a substantial bloc of Democrats in the Congress, constant pressure by the administration resulted in the enactment of the first major legislation in the field of civil rights in more than 80 years.

In summary, the Civil Rights Act of 1957:

1. Established in the executive branch a six-member bipartisan Commission on Civil Rights, with subpena powers, to investigate alleged deprivation of voting rights because of color, race, religion, or national origin; to study legal developments constituting denial of equal protection of the laws; and to appraise Federal laws and policies regarding equal protection of the laws.

2. Provided an additional Assistant Attorney General for Civil Rights in the Department of Justice.

3. Affirmed the right of an individual to recover damages or secure other relief under any act of Congress providing for the protection of civil rights.

4. Made interference with the right to vote in Federal elections actionable at the discretion of the Attorney General under injunctive proceedings in U.S. district courts, which have jurisdiction without regard to whether other lawful remedies have been exhausted.

5. Provided that in criminal contempt cases, involving punishment for willful disobedience of injunctions or other court orders in voting-rights cases, the defendant may be tried with or without a jury, in the discretion of the judge. If in such trial without a jury the judge imposes a fine greater than $300 or a jail term longer than 45 days, the defendant, upon demand, would be given a new trial before a jury.

Maintained the courts' power through civil contempt proceedings, without a jury, to secure compliance with, as distinguished from punishment for violations of, injunctions or other court orders in voting-rights cases.

Set qualifications for Federal jurors independent of State laws, stating that any 21-year-old citizen who has resided 1 year within the judicial district is competent to serve as a juror, unless he is illiterate, a criminal, or physically or mentally incapable.

In 1958, the only action taken was to extend the life of the Civil Rights Commission for 2 additional years.

The bill, upon which the Senate now is about to act, after many weeks of debate in which a substantial bloc of Democrats has again fought tooth and nail against any civil rights legislation, contains significant additions to existing law. The major provisions of the Civil Rights Act of 1960 follow:

Title I makes it a Federal crime to use threats or force to attempt to or to interfere with or obstruct any Federal court order. Penalties: $1,000 or 1 year or both.

Title II makes it a Federal crime to flee from one State to another to avoid testifying or prosecution for bombing of any structure or building, including schools or churches, plus vehicles. Penalties: $5,000 or 5 years or both. Makes a Federal crime (a) the transportation in interstate or foreign commerce of explosives with intent to damage or destroy any real or personal property for the purpose of interfering with its use for educational, religious, charitable, residential, business, or civic objectives—subject to a graduated scale of penalties; and (b) bomb threats through the use of instruments of commerce—subject to $1,000 or 1 year or both.

Title III, requires for a 22-month period preservation of voting records pertaining to Federal elections, and gives the Justice Department power to inspect any such voting records, but only at the principal office of the custodian of such records.

Title IV authorizes each member of the Civil Rights Commission to administer oaths and take statements of witnesses.

Title V makes funds available to the Commissioner of Education to make arrangements for providing local educational facilities for children of military personnel in federally impacted areas, residing off the post.

Title VI, the Attorney General's proposal, as amended, to amend the Civil Rights Act of 1957 by providing for court-appointed U.S. voting referees.

I regret that the stubborn resistance of Democratic Senators opposed to any civil rights legislation has prevented further improvements in the bill. I refer to the defeat of attempts to revive part III of the administration's 1957 program, which would have given the Attorney General the authority to bring suit on behalf of individuals deprived of civil rights to which they are entitled under the Constitution, and to the rejection of portions of the administration's program this year. It is especially regrettable that the Senate has refused to establish a Commission on Equal Job Opportunities under Government Contracts, thereby providing statutory authority for the President's Committee on Government Contracts which has done such excellent work in this field under the able chairmanship of Vice President NIXON.

Although I have voted with those who have sought to strengthen the bill and against the attempts which have been made to weaken it further, I regard the legislation we are about to pass as a substantial advance toward our goal of securing to all people, regardless of race, creed, color, or national origin, the rights to which they are entitled under the Constitution and the 14th and 15th amendments.

Mr. DIRKSEN. Mr. President, with the understanding that I reserve my right to the floor, I ask unanimous consent that I may yield to the distinguished Senator from New Mexico for 2 minutes.

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

TRANSPORTATION OF AIRMAIL

Mr. ANDERSON. Mr. President, on March 16 I introduced S. 3214, a bill to clarify the law with respect to transportation of airmail, and for other purposes. Briefly, this bill merely states that if anyone wants to send a letter by air he must make sure that an airmail stamp is placed on it. Or to put it another way, the Post Office Department shall not contract to have any first-class mail transported by airplanes unless airmail rates are charged.

My bill has been referred to the Committee on Post Office and Civil Service, and I hope the distinguished members of that committee will be able to give it consideration at an early date.

My reason for referring to this matter today is because of the action of the Post Office Department initiated on April 4 whereby new contracts for carrying 4-cent mail by air went into effect. The Post Office now sends by airlift mail intended to be sent at regular first-class rates between the three cities of Detroit, Cleveland, and Pittsburgh, and points in Florida.

Mr. President, I submit that this is a slap in the face of the recommendation

made by the House Appropriations Committee in Report No. 1281. That committee, in reporting the Post Office appropriations bill, recognized the seriousness of this practice by the Postmaster General of entering into these airlift contracts on his own initiative. Since this is a matter of legislative action the committee recommended that no further extensions of the airlift be made until the Congress acted by examining the matter thoroughly. Legislation similar to my bill is pending in the House, and I understand that action is expected shortly. The Appropriations Committee felt that this was a proper subject for the legislative committee and therefore no attempt to put a rider on the appropriations bill was made. However, it is obvious that the recommendation of the committee did not do a bit of good.

The paradox of this situation is that only yesterday I received, as I am sure other Senators did, a letter dated April 4 from the Postmaster General following up his earlier letter trying to persuade the Senate that it is necessary to raise postal rates.

I am advised that the Post Office Department appropriations bill is pending before the subcommittee in the Senate. I hope that the members of that committee will take notice of this situation and question the Post Office Department officials on how highly they regard the recommendations made by the corresponding committee in the House of Representatives. I think this is a question that needs to be investigated at the earliest possible time by the Congress, and I urge the Members of the Senate, and especially the committees concerned, to give it very careful consideration.

CIVIL RIGHTS ACT OF 1960

The Senate resumed the consideration of the bill (H.R. 8601) to enforce constitutional rights, and for other purposes.

Mr. DIRKSEN. Mr. President, with the understanding that I reserve my right to the floor, I yield 1 minute to the Senator from North Carolina.

Mr. ERVIN. Mr. President, I wish to commend the magnificent speech which the distinguished and able junior Senator from South Carolina [Mr. THURMOND] has made. No Member of the Senate has fought with more industry and more intelligence and more courage than the able and distinguished junior Senator from South Carolina to preserve constitutional government in America during the current fight and, indeed, at all times since he has come to the Senate. He merits the thanks not only of his State and the South, but also of the entire country for his services in this respect.

Mr. THURMOND. Mr. President, I thank the able and distinguished Senator from North Carolina for his kind remarks. I especially appreciate them because they come from such a great statesman and great lawyer and great American.

During the civil rights fight, and ever since I have been in the Senate, no one has fought harder to preserve the basic principles upon which this great country of ours is founded than the able and distinguished Senator from North Carolina. I therefore especially appreciate his remarks, because they come from such a fine and able lawyer and fine citizen and great American.

Mr. DIRKSEN. Mr. President, with the understanding that I reserve my right to the floor, I ask unanimous consent that I may yield for 1 long minute to the Senator from South Dakota.

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

Mr. CASE of South Dakota. Mr. President, I shall vote against the motion to recommit the bill to committee, or, if a motion is made to table the motion to recommit, I shall vote for the motion to table the recommittal motion. On passage of the bill I shall vote for the bill.

The pending bill seeks to make it possible for a citizen to take part in his government regardless of the color of his skin.

A very great President, a Democratic President, Woodrow Wilson, once said that in America we sought to create a condition where no man could be made afraid; that it was the intention of our kind of government to set man upon the high road and to let him participate in government without fear.

Another great President, Theodore Roosevelt, a Republican President, said that it was not the man sitting by the fireside and complaining of conditions who would make good government in America, but that it was the man who did not hesitate to participate in the primary, who did not hesitate to leave his fireside and to work in the precinct who would convert bad government into good government, and good government into better government.

It is not possible for us to have good government and representative government in America unless people can go to the ballot box without fear in their hearts and without any intimidation.

The pending bill, in my judgment, seeks to make it possible for every person to take part in his government without fear, without intimidation, without the thought that someone will bar him because of the color of his skin or because of his religion or because of his race or because of any previous condition of servitude that he or his ancestors might have had. The pending bill is an attempt to make representative government work.

Therefore I shall vote against the motion to recommit the bill, and I shall vote for the passage of the bill.

Mr. DIRKSEN. Mr. President, further reserving my right to the floor, I yield 20 minutes to the distinguished Senator from Arkansas.

Mr. McCLELLAN. Mr. President, since February 15 the Senate of the United States has been unnecessarily and unjustifiably occupied in the consideration of so-called civil rights legislation. On that date, February 15, we took up in the Senate what was known as the Missouri school bill, H.R. 8315, which had no relation whatever and in no way involved the civil rights issue.

Thereafter, I believe on the 24th of February, the so-called Dirksen amendment was offered in the nature of a substitute. We continued to debate that substitute or that amendment until such time as the House passed and sent to us H.R. 8601, the bill now before us.

During this time important measures and vital issues involving the interests of our country and the welfare of our people have been shunted aside and treated with indifference and neglect, while the Senate of the United States has been subjected to this unpleasant imposition. The only real and lasting good—and I hope it will be lasting—which has come from or will come from this prolonged legislative ordeal of approximately 2 months is in what the Senate has refused to do—what it has rejected—rather than in what it has accepted and now proposes to enact into law.

Fortunately, indeed, for our country, a small group of Senators—18 to be exact, and with whom I am happy to be included, and to have served and been associated with in this great effort—this small group of Senators with resolute determination, inspired and fortified by the righteousness of their cause, fighting with their backs against the wall, and finally with the help of some colleagues who have responded to logic, reason, and justice, have been able to bring about the rejection and defeat of many far more obnoxious and odious provisions and proposals than those now remaining in the pending bill.

Many such proposals have been defeated; and so far as the pending bill is concerned, since it has already reached the stage of third reading, they no longer constitute a threat during any further consideration of the bill.

Mr. President, in winning the rejection of many amendments and provisions that came before the Senate for consideration, we in effect repelled, for the time being, at least, the further invasion of States rights and vicious assaults on many of the rights and liberties of the people which are vouchsafed to them by the Constitution of the United States.

Mr. President, I shall vote against the motion to table the motion to recommit, for I am opposed to H.R. 8601 and shall vote against the passage of the bill.

I would make it very clear, however, that in voting against the enactment of H.R. 8601 I am not opposed to the rights and privileges guaranteed by the Constitution of the United States to all citizens, whether they be white or colored. I believe in the Constitution—in the letter and spirit of it as it was written and adopted by our Founding Fathers. But I do not accept, without sadness and protest, perversions and distortions of the letter, true meaning, and intent of that great document, even when such perversions and distortions of it are engaged in or sanctioned by the Supreme Court of the United States.

I believe in the right of all citizens to exercise their privileges and guarantees under the Constitution and the laws within its framework which implement its provisions and that are supplementary thereto as may be enacted by Congress. I also believe in State sovereignty, and I respect, uphold, and defend

those powers which are reserved to the several States and to the people thereof by the 10th amendment to the Federal Constitution.

H.R. 8601, now in its final form, so far as this body's authority can be invoked, and the many amendments that were offered to it, and other proposals that have been presented to the Congress, all purport to be legislation designed to guarantee to people of the colored race the exercise of various privileges which it is claimed are now withheld from them.

Mr. President, I am not convinced that privileges and rights are withheld from the colored people, and certainly not in my State. I refer to legitimate rights under the Constitution, and not necessarily to all so-called rights it is claimed that this bill is intended to restore or enforce. In Arkansas, all Negroes vote who desire to exercise their franchise. They are not denied that right; they vote on the same terms and basis of white citizens, and their votes are counted.

The passage of the bill will not increase by a dozen the number of Negroes who will cast their votes in the coming election in Arkansas. If that be true—if I am stating a fact—then there can be no support for the charge that I am opposed to such legislation because it will increase the number of Negroes who will vote in my State. In Arkansas, Negroes are encouraged to qualify to vote—to qualify in the same manner and by doing the same acts as are required by State law of all alike, whether white or black.

In many States, the expression or requirement is to "register to vote." In my State, voters pay a poll tax. That is the way they qualify. After the other requisites for the entitlement of citizens to vote are met, such as age and residence, Negroes can qualify to vote by paying a poll tax, just as all white citizens must do to be eligible to vote.

Negroes do vote in Arkansas. They vote in large numbers. Their voting strength is steadily increasing and there is no policy, program, or purpose in the State of Arkansas with its government or with its citizens to deny or hinder any Negro citizen of that State in the exercise of his right to vote in all elections, in the primaries, in the general elections, and in local elections. On the contrary, the Negro is not only encouraged, but is urged to exercise this responsibility of citizenship.

I do not believe there will be found to be any "pattern or practice," as referred to in the bill, in Arkansas which will give rise to the jurisdiction, authority, or proceedings of the Federal court that the bill is intended to authorize or confer. Notwithstanding that, the principal involved of setting up such authority and conferring such jurisdiction upon Federal courts as the bill would do, in my judgment seriously contravenes both the letter and spirit of the Constitution, impinges upon State sovereignty, and usurps powers which are primarily reserved to the people themselves.

For that reason, I oppose the enactment of the bill. The constant, ever-increasing encroachment by the Central Government upon the prerogatives of the States and of the people, as reserved to them by the Constitution, is a danger from within, a danger which can become just as fatal and destructive to the liberties of the people as any danger which threatens us, or which could threaten us, from without.

In my judgment, Mr. President, the so-called Civil Rights Act of 1960 is nothing but a political legislative project. It is an attempt to gain favor with the Negro and so-called liberal groups throughout the country. It is inspired by political expediency. I can discover no other real motives behind it. They want to capture the Negro vote. If we remove political considerations, there would be no proposed legislation of this character before Congress. There would not have been this 2 months' waste of time and labor on the part of the Senate if there had been no such political matinees involved.

Unfortunately, Mr. President, there are those who believe it politically expedient to enact coercive and punitive legislation against one great section of the country and the citizens thereof. As has been demonstrated time and time again, there are those who would, if possible, humiliate the South. They would like to hold the Southern States and our people up to ridicule and derision. They may do so, and they may profit politically thereby. But, Mr. President, the best interests and the welfare of neither black nor white will be served thereby. The victory, if any, which they will gain will be of dubious value. It will be won at a terrible price.

The enactment of this bill at this session of Congress will really settle nothing. It will not resolve the so-called issue of civil rights. It will not satisfy or appease the extremists and the agitators. It will not promote better race relations, either in the South or anywhere else. This legislation will simply be followed by the introduction of a flood of bills, in the guise of "civil rights" legislation, in the 88th, the 89th, and 90th, and possibly in other succeeding Congresses.

Next to the ill-advised and injudicious Supreme Court school decision of May 17, 1954, this so-called civil rights legislation has done more to divide and to construct a barrier between the white people and the colored people of the United States than anything else that has been done.

The Civil Rights Act of 1957 lent impetus to the injustice and error of that Supreme Court decision; and this so-called Civil Rights Act of 1960 will serve to further aggravate the tensions and dissensions that exist. It will further divide our people, incite recriminations, and instill hatreds that have not existed heretofore.

Mr. President, when we pick up the newspapers, we read the headlines about actions throughout the country, the sit-downs and other demonstrations that are stirring up bad feeling and tension and hatred between the races. Mr. President, the travesty that has been enacted here in the Senate during the past 60 days simply feeds the flames of those tensions and the enmity and bitterness that should not exist. Mr. President, such feelings were being greatly ameliorated, and we were emerging from that unhappy and disagreeable situation, until some of these actions took place.

Prior to the Supreme Court decision of 1954 to which I have referred, and prior to the Civil Rights Act of 1957, race relations in this country and the so-called civil rights situation were improving. Rapid strides were being made. The processes of evolution were working favorably and effectively and had been so working for many, many years. This improvement was coming about through education, understanding, and mutual respect. Mr. President, that is the only way it can be done. The use of force—even the use of legislative force, Mr. President—will not do it. Laws that disregard the constitutional concepts of our liberties and the powers deposed in our sovereign States will not do it.

Those who believe that this Civil Rights Act of 1960 is going to be a panacea or cure-all are sadly mistaken. This force process will not work. The agitation that has provoked and motivated the character of the legislation we are considering has already done irreparable harm.

I cannot recall any period in my lifetime when race relations between our white citizens and our Negro citizens were more unhappy and more strained than they are today. What we are doing here is not conducive to improving that situation. It may very well cause it to worsen; and there is much evidence that that is exactly what is happening.

Mr. President, we need to return to reason, to tolerance, and to understanding. Great statesmen who served in this body before us had the wisdom—and, I may say, the political courage, as well—to understand, recognize, and handle this problem with justice and for the best interests of all.

The PRESIDING OFFICER. The time yielded to the Senator from Arkansas has expired.

Mr. McCLELLAN. Mr. President, will the Senator from Illinois yield additional time to me?

Mr. DIRKSEN. Mr. President, reserving my right to the floor, I wish to yield an additional 10 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. Without objection, the Senator from Arkansas is recognized for an additional 10 minutes; and he may proceed.

Mr. McCLELLAN. I thank the Senator from Illinois.

Mr. President, a shining example of the wisdom, discretion, and statesmanship displayed by some of our predecessors is to be found in an address made by the late William E. Borah, a great Senator from the State of Idaho, on the 7th of January 1938. At that time this body had up for consideration House bill 1507, of the 75th Congress, a measure "to assure to persons within the jurisdiction of every State the equal protection of the laws and to banish the crime of lynching." The able statesman from Idaho opposed that measure. He spoke elo-

quently and with compelling conviction in opposition to it. That he was correct in the view he expressed—namely, that that measure was not needed—has been thoroughly demonstrated with the passage of time and with our witnessing happily, in the ensuing years, that the crime of lynching has become practically extinct. That result has been achieved without the enactment of any unconstitutional legislation, as then proposed.

At that time among the agitators and the extremists there was urgent demand that such legislation be enacted. But—fortunately for both races and for all concerned—the wisdom of statesmen such as the late Senator Borah prevailed, and there was no action taken then which would have been tantamount to hurling insults at one section of the country in which a lynching occasionally occurred, and ignoring the situation in other sections of the country, including great metropolitan areas, where gangsterism then prevailed and was running rampant.

Yes, Mr. President, they sought then to single out one section of the country, the South, to legislate against, while condoning, by inaction and indifference, greater evils and crimes that were occurring repeatedly in other sections of the country.

They would do that again today, Mr. President. We have one great city, New York, where over 600,000 American citizens are not permitted to vote. Yet there is no provision in this bill to enfranchise them. I pointed out earlier in this debate that there were thousands of persons, both white and black, living on Government reservations in this country, who are now denied the right to vote. They are disfranchised. There is legislation pending and now on the calendar which would give them the right to vote if it were enacted; but no action has been taken, and no one has proposed by amendment to this bill that the legislation be enacted. Why? Simply because the NAACP opposes it. There is another large number of persons who are suffering the denial of voting rights, who have just as much right to vote as anyone else; but, because of a legal barrier that is unjust and could be removed, and ought to be removed, they are not accorded that privilege now. And because the NAACP objects we are doing nothing about it in this bill.

Congressman WILLIAM JENNINGS BRYAN DORN, of South Carolina, inserted that historic speech by Senator Borah in the CONGRESSIONAL RECORD on Friday, March 11, 1960. I wish every American citizen might read it, and especially would I urge Members of this body to read it again and again and meditate upon the instruction and counsel it contains. I deem it appropriate at this time, Mr. President, to quote some excerpts from that notable address:

> Mr. President, this measure (speaking of the bill then before the Senate), in a slightly different form but embodying the same principles, came to this body about 25 years ago.

That would have been about 1913. There was agitation away back then, nearly a half century ago, for legislation of this character. The able Senator from Idaho made this comment about it:

> At that time I was a member of the Judiciary Committee of the Senate and was appointed by the late Senator Nelson, chairman of a subcommittee to pass upon the measure, particularly its constitutional features. I shall not at this time go into the history of the action of the committee at that time. It may be necessary to do so later in order to throw light upon some features of this matter. It is sufficient now to say that I reached a conclusion as to the merits of the bill, which conclusion I still entertain.

The Senator said further:

> Heretofore, I have confined my remarks upon this bill largely to the question of its constitutionality. Those questions still interest me, and probably I shall discuss them later. Today, however, I desire to address my attention for a time to the policy involved in this measure.

Mr. President, not only is the constitutionality of the pending bill at issue, and that is a serious question, but there is also at issue the policy of the Federal Government's undertaking to inflict this imposition by usurping authority which is reposed in the States and the people thereof under the Constitution. Such usurping of constitutional powers reserved in the States is a dangerous policy.

I read further from what the Senator said:

> Assuming for the purpose of the argument that we have the constitutional power to pass such a measure as this, I desire to invite the attention of the Senate to the wisdom of doing so. I think it only a little less important, perhaps no less important, than the constitutional question itself.
>
> Notwithstanding anything that has been said or that may be said to the contrary, this is a sectional measure.

It is a sectional measure, Mr. President. If there were no South in the United States, there would be no civil rights legislation before the Senate. It is, in a sense, a recrimination against one of the glorious sections of our country.

The Senator further said:

> It is an attempt upon the part of States practically free from the race problem to sit in harsh judgment upon their sister States where the problem is always heavy and sometimes acute.

That charge, made at that time, is applicable today. It is applicable to the pending bill, with this qualification, that the problem about which he spoke then is spreading now throughout the country, and, instead of the problem being acute in one section, some areas are reaping what they have been sowing. They are beginning to reap what they have sown, and there are areas in other sections of the country that are now beginning to feel the pressure of this problem.

I continue to read from what the Senator said:

> It is proposed to condemn these States and the people in them because it is claimed that they have failed properly to meet and adjust the most difficult of all problems. No more drastic condemnation could be offered by a measure than that which is offered by the measures now before the Senate.
>
> It proposes to authorize the National Government to enter into the States and to take charge of and prosecute as criminals the duly elected officials of the States, from the Governor down. It proposes that the Federal Government shall be the sole judge of the guilt or innocence of State officials.
>
> In my opinion, that requires a review of some unfortunate history and the recalling of some unpleasant facts. These States are not to be pilloried and condemned without a full presentation of the nature of the task which fate and circumstances imposed upon them, and not without a complete record as to the weight and difficulty of the task, what has been done, and with what good faith it has been met. I shall contend that the southern people have met the race problem and dealt with it with greater patience, greater tolerance, greater intelligence, and greater success than any people in recorded history dealing with a problem of similar nature. Let us inquire what it is that the South has had to do, how it has done it, and what reason there is now, after 70 years of great effort, to pass censure or condemnation of those great States and that great people.
>
> Paraphrasing the language of one of the most eloquent of men, when the Confederate soldier pulled his gray cap over his brow, and lifted his pallid and tear-stained face for the last time to the graves which dotted the hills of old Virginia, and started on his slow and painful journey home, what was he to find? What were the problems, what was the task, what were the conditions which confronted him? His home was destroyed, his plantation devastated, his help gone, his money worthless, his civilization imperiled. This was the condition in addition to the other problem with which we are more particularly concerned today, and which confronted the South as it entered upon its great task of rebuilding.
>
> I shall not go into details as to the Reconstruction period. I recall it sufficiently and only that we may understand something of the antecedents of this problem and something as to the good faith and the ability with which it has been met. I recall a single instance in the way of illustration. When Congress met in December 1865, the then leader of the House—perhaps the most complete master of the House of Representatives that history records—Thaddeus Stevens, outlined the program with reference to the then pending situation. Among other things, he said:
>
> "The future condition of the conquered power depends upon the will of the conqueror."
>
> He said further that the conquered provinces were to be admitted as States "only when the Constitution has been amended so as to secure the perpetual ascendancy of the party of the Union"—the Republican Party—"every government is a despotism. * * * The Constitution has nothing to do with it [the program]. * * * I propose to deal with you [the South] entirely by the laws of war. * * * The conquered people have no right to appeal to the courts to test the constitutionality of the law. The Constitution has nothing to do with them or they with it."
>
> Thus they were to take up the work of rebuilding and of carrying the race problem with the threat of having all constitutional guarantees withdrawn.
>
> Mr. President, I have always felt that in many respects the Reconstruction period is the most regrettable page of American history. Had Abraham Lincoln lived through his second term, it probably would have been the most readable page, one of the noblest pages in all history. It would have been characterized by wide sympathy, by breadth

of understanding, and by that wisdom which flows from the heart as well as the brain, which passeth all understanding. It would have been free from that blind partisanship which disregards constitutions and constitutional limitation as well as national honor and national unity.

A short time before the great emancipator was removed from the scene he had outlined his views on Reconstruction. What a different story would have been written had those views prevailed. What a different national life would have been lived had those views obtained. But before his body had reached Springfield the committee had met and had determined upon the complete rejection of the entire policy theretofore announced by the dead President. Ben Butler's views superseded those of Abraham Lincoln; and a more tragic thing could not happen in a crisis confronting a nation. These measures with reference to Reconstruction therefore were written from the standpoint of partisanship not unmingled with a desire to punish.

The measure now before the body embodies the same principle upon which those measures were founded. The same arguments are made in support of the pending measure, to wit, that the southern people are to be distrusted and are incapable of local self-government.

We know now what those measures in those days did. They retarded and frustrated the coming together of the people of the different States. They gave us the solid South. They separated us politically, which separation continues until this day. They implanted a sense of bitterness in the minds of those people, not because of what had happened upon the field but because of what happened in Congress.

It is not in the interest of national unity to stir old embers, to arouse old fears, to lacerate old wounds, to again, after all these years, brand the southern people as incapable or unwilling to deal with the question of human life. This bill is not in the interests of that good feeling between the two races so essential to the welfare of the colored people.

Nations are not held together merely by constitutions and laws. They are held together by mutual respect, by mutual confidence, by toleration for conditions in different parts of the country, by confidence that the people of the different parts of the country will solve their problems; and that is just as essential today as it was in 1865 and 1870.

In the beginning, Mr. President, I reject the pending measure as fundamentally not in the interest of the white people of the South, not in the interest of the black people of the South, not in the interest of national unity nor of national solidarity, not in the interest of eliminating crime. History has proven that it will be a failure, and those who suffer most will be the weaker race.

Mr. President, the race problem is the most difficult of all problems, and, in addition to the conditions which I have outlined briefly, the southern people had placed upon them the race problem under circumstances and conditions never before experienced by any people, so far as I know, in recorded history. In addition to and on top of all other problems the South had to grapple with the race problem. How well has it dealt with it?

At the close of the Civil War there were a little over 5 million white people in the South; there were 3,500,000 Negroes. In Mississippi there were 100,000 more colored people than white people. In South Carolina there were something like 150,000 more colored people than white people. There were the two races, living upon the same soil, now equally free under the Constitution, one of them untrained and unschooled in the affairs of state, and untrained in citizenship. The problem had to be met. Was it easy of solution? Can one conceive of a more difficult problem placed before a people? I wish we could place ourselves in their position. It will help us to be sympathetic, sane, and just.

I call attention to some facts which lead up to the question of lynching. History shows that in the North in 1889, 1 Negro in every 185 was in jail; in the South, 1 in every 446. In the North the percentage of Negro prisoners was six times as great as that of the native whites, in the South four times as great.

Monroe S. Work, of Tuskegee College, has said:

"There is a much higher rate of crime among the Negroes in the North than in the South."

That speaks volumes for the southern Negro and no less for the whites.

Professor Johnson, of Fisk University, has said:

"The rate for Negroes is much higher in the Northern States than in the Southern States as to crime. Judging by the figures alone, for a 10,000-Negro population, the commitments were 88 in the South, 283 in the North."

In a volume entitled "Negro Housing," published in 1932, I find the following:

"The extent of property ownership by Negroes has in the past been greater in the South than in the North."

It will be disclosed that in some of the southern cities the percentage of Negro ownership of homes runs as high as 45 percent of the Negro population; in other places as high as 30 to 39 percent of the Negroes own their own homes.

In a bulletin issued by the Department of Agriculture in 1930 we find the statement that the value of land and buildings of farm property owned by Negroes increased from 1910 to 1930 as follows, giving the round figures:

	Percent
Virginia	58
North Carolina	140
Georgia	11
Florida	29
Louisiana	142
Texas	97
Mississippi	68
Alabama	54
Oklahoma	41
West Virginia	37

I mention these figures to show the progress of the Negro throughout the South in an economic way, for, after all, only in proportion as he acquires property and economic power can he hope to be secure in his political rights. That is just as true of the white man as of the colored man. And in proportion that he advances in education, in the acquisition of property, and in the acquisition of economic rights, in that proportion he will come to be regarded as an essential factor of the southern civilization, and treated as such; and to accomplish that has been the aim of the southern Negro, encouraged and assisted by the white people of the South.

Mr. President, my time is up and I conclude—the die is cast. This bill will be passed. But its enactment will add no glory to our history; it will not enhance our liberties nor will it fortify or strengthen the Republic. Its enactment will be a sad and regrettable mistake.

Mr. DIRKSEN. Mr. President, further reserving my right to the floor, I yield 5 minutes to the distinguished Senator from Massachusetts [Mr. SALTONSTALL].

Mr. SALTONSTALL. Mr. President, I thank the Senator from Illinois. On March 10 I spoke briefly and gave my views on the problem of civil rights as I saw it. I said, in part:

> It seems that our most cherished right is to have the opportunity to vote as we wish for the policies and people we support—to participate in free elections. This is the core of our democracy or of any democracy. Once it is denied, even in the smallest degree, we all feel the loss. The collective right is then in jeopardy.

Certainly one fact that has remained abundantly clear throughout this debate is that a substantial number of citizens in this country are frustrated when they try to carry out their constitutional right to vote. The evidence on this point is emphatic. So the need for legislative action to better guarantee the actual opportunity to participate in our free elections without discrimination is essential.

We will soon vote on a civil rights bill. In my view it constitutes real and vital progress toward guaranteeing participation in free elections by every citizen. The original administration bill, which I cosponsored, was primarily a voting rights bill. It contained other provisions, recognizing that civil rights problems and progress in various realms are continuing and will be closely interrelated; but the core of the bill was to protect the basic privilege of taking part in our Government by voting.

The proposal before us contains the basic provisions relating to voting rights which were contained in the original bill. Other of the original sections have been revised and some have been dropped. The proposal as it now stands I hope and trust will ultimately reach the President without change.

I believe that the Senate has effectively resisted so-called watering down amendments which would have weakened the bill.

Certain other provisions which have validity on their own merits were passed over at this time because by their inclusion they might have jeopardized the passage of the bill. This would have prevented the enactment of voting rights guarantees. I am confident, however, that favorable legislative action may well be taken by the Congress at a later date on these provisions, if they are at that time still believed to be valid.

In the passage of any legislation we must determine what is practical and realistic and go forward to obtain that result. If we try to move too far too quickly, we may accomplish nothing. I believe that in order to reach productive results in this session, the Senate should pass a bill which is substantially similar to the House bill sent over to us, so that a minimum of difficulty and danger is encountered in accommodating differences. The bill before us is of that character.

The proposal which we will shortly vote on is positive, it is constructive, and it moves forward in three different areas all concerned with the problem of lessening the practice of discrimination.

First, it effectively builds on the 1957 Civil Rights Act by preserving Federal election records for inspection by the Justice Department and by providing

for court-appointed referees, in cases where discrimination has been shown, so that qualified voters are permitted to register, to vote and to have their votes counted.

Second, it helps to make more effective the 1954 school desegregation order of the Supreme Court by making it a Federal crime (a) to use force or threats of force to obstruct court orders, (b) to carry explosives, and (c) to flee across State lines to avoid prosecution for damaging buildings or property. These buildings obviously include schools and churches. It also provides for the education of children of military personnel in areas where regular schools are closed by desegregation.

Third, it gives the Civil Rights Commission the power to administer oaths. The life of the Commission was extended last session for 2 years, but it is presently somewhat hampered by its inability to administer oaths.

The civil rights bill of 1960 will thus continue to add essential features to the laws already on the statute books toward ending discrimination in the voting privileges of our citizens, in the schooling of our youth, and in making more effective an important Commission of the Government responsible in this area.

We want legislation rather than procrastination. I hope that this bill will pass the Senate and ultimately become the law of the Nation.

Mr. DIRKSEN. Mr. President, further reserving my right to the floor, I yield 10 minutes to the distinguished Senator from New York [Mr. KEATING].

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

Mr. KEATING. Mr. President, I thank my colleague from Illinois.

Mr. President, before the debate is concluded several points should be emphasized with respect to the operation of the provisions of this bill.

With respect to the voting referee title, the following should be made clear:

First. The title operates when there has been deprivation of any right or privilege secured by subsection (a) of section 1971, title 42, United States Code. That subsection proscribes discrimination at any stage in the registration or voting process. Thus, the operation of the title does not depend on discrimination in processing applications for registration. For example, a finding of discrimination in voting clearly would trigger the voting referee title.

Second. The right secured by title 42 United States Code section 1971(a) is the right "to vote at any election without distinction of race, color, or previous condition of servitude." This right is infringed by segregation anywhere in the voting process as well as by more obvious acts of deprivations of the right to vote.

Third. The "pattern or practice" requirement means only that the proven discriminatory conduct of the defendants was not merely an isolated instance of racial discrimination. For example, a challenging system which operated to strike Negroes from the voting rolls while leaving enrolled white persons who were equally subject to challenge would constitute a pattern or practice of discrimination. Similarly, if State registration officials applied more stringent qualification tests to Negroes than to white citizens, or attempted to frustrate Negro enrollment by failing to hold registration sessions, such derelictions of duty would constitute a pattern or practice. Moreover, a single act such as enactment of a statute directed at Negroes would in itself constitute a pattern or practice of discrimination.

Under the voting records title, two points need clarification:

First. Section 303 of H.R. 8601, which deals with the preservation of voting records and the right to inspect them, is intended to make clear that whoever has custody of the records required by the title to be preserved must make them available to the Attorney General upon his demand therefor. This would include State judicial or quasi-judicial bodies who may have temporary possession of election records.

Second. The language added by the House Judiciary Committee in section 303 that the Attorney General's demand "contain a statement of the basis and the purpose therefor" means only that the Attorney General identify in a general way the reasons for his demand. Clearly a sufficient statement would be the assertion that the demand was made for the purpose of investigating possible violations of a Federal statute. No showing even of a prima facie case of a violation of Federal law need be made. And, obviously, the Attorney General's statement is not subject to judicial review.

Mr. President, I believe that a majority of the Senate shares my understanding of the meaning of these provisions, but I thought it was important to make the record on this point abundantly clear.

The civil rights bill is not a victory for anyone. It is a compromise measure. It contains a number of useful provisions, but it omits other very important proposals. No one would contend that it fully copes with the gamut of civil rights problems confronting our Nation. But it does deal with some of these problems in an effective and meaningful manner.

Progress in this area always has been slow. This bill certainly represents progress, but we are progressing at a snail's pace when measured against the distance which must eventually be covered.

This is not a time to assess blame or to bestow credit. It is evident, however, that one of the reasons for our failure to enact more meaningful legislation was the refusal of all proponents of civil rights to unite behind the administration's original bill. This bill contained realistic and substantial measures to relieve the critical civil rights problems facing us. Two of its most useful provisions—dealing with technical assistance to school districts which need help in implementing desegregation and with equal job opportunity for employees of Government contractors—have fallen by the wayside.

This kind of halfway measure is a compelling invitation to a renewal of the struggle for effective civil rights legislation at the very next opportunity. I cannot believe that the American people will settle for a bill which does not contain any provisions for implementing the Supreme Court's desegregation decision, which does not contain any provisions for guaranteeing that Federal funds will not be used to subsidize discrimination in employment, and which does not contain any provisions allowing the legal resources of the Federal Government to be used in aid of the constitutional rights of our citizens other than voting.

In retrospect, it is apparent that these important proposals were defeated more by the shortcomings of the rules of the Senate than by any repudiation of their inherent and obvious merit. The dark cloud of a constantly threatening filibuster storm has hovered over our deliberations from the very beginning. This has had more to do with shaping this legislation than any discussion of the merits. In truth, we have obviously been engaged in shadowboxing during much of this debate on civil rights.

This strongly indicates that before any really adequate civil rights bill is enacted by Congress an overhauling and modernizing of its rules of procedure will have to take place. It has now been demonstrated that the insubstantial change in the cloture rule adopted at the beginning of the last session is utterly inadequate and that a further revision of rule XXII is essential. We should also consider adoption of other provisions which will guarantee a meaningful debate of the issues in legislation before the Senate within a reasonable period of time. I am studying a proposed rule along these lines under which the period for debate could be determined in advance and divided on an equitable basis between the proponents and opponents of any particular measure or amendment.

The objective of such a rule change would be to assure a relevant exchange of views on the merits of a proposition rather than a mere time-consuming, record-filling soliloquy for home consumption.

Of course, there are some provisions in this bill which will be of great assistance in our efforts to curb deprivations of civil rights, particularly in the field of voting. The ultimate effectiveness of the bill will only be determined by experience. But there is reason to expect that under its provisions an unprecedented number of Americans, who have been refused the right to vote in some areas of our country, will now be allowed to participate in our political processes. We have also taken an important step forward in adopting a very comprehensive section to deal with the hate bombers who have disgraced our Nation in the eyes of the whole world by their depraved acts of violence. The sections dealing with obstruction of court orders, the preservation and inspection of voting records, and the education of children of members of the Armed Forces in areas of school closings, should also be constructive.

We have climbed part way up the ladder which leads to equality of opportunity and freedom from discrimination

for all Americans. But there are still many steps ahead of us if we are ever to reach the pinnacle of freedom and justice contained in the grand design of the Constitution.

Mr. DIRKSEN. Mr. President, reserving my right to the floor, I yield 20 minutes to the Senator from Pennsylvania [Mr. CLARK].

Mr. CLARK. Mr. President, the Senate will shortly pass the Civil Rights Act of 1960. I shall reluctantly vote for this bill—a pale ghost of our high hopes of last fall.

Those of us who supported a meaningful civil rights bill have suffered a crushing defeat. The other day I said, half in jest, half in earnest, to the senior Senator from Georgia [Mr. RUSSELL]: "DICK, here is my sword. I hope you will give it back to me so that I can beat it into a plowshare for the spring planting."

Surely in this battle on the Senate floor the roles of Grant and Lee at Appomattox have been reversed.

The 18 implacable defenders of the way of life of the Old South are entitled to congratulations from those of us they have so disastrously defeated. To be sure, at critical moments, they had the assistance of the President of the United States, the Attorney General, the minority leader, and the majority leader. But they nevertheless carried the brunt of the battle.

I regret that, in my judgment, the people of the United States of America, indeed, the people of the whole free world are the losers in this fight.

Let us review the major provisions a meaningful civil rights bill should contain.

They are only four in number:

First. Legislative and executive support for the efforts of the Supreme Court of the United States to carry into effect the equal protection of the laws clause of the 14th amendment as applied to school segregation.

Second. At least a beginning in an effort to secure fair employment practices for all citizens, regardless of race or color.

Third. Protection at the Federal level for other civil rights guaranteed by the 14th amendment, such as equal access to public facilities, regardless of race or color.

Fourth. Assurance that all citizens shall be permitted to register and vote in all elections, local, State, and National, regardless of race or color, as guaranteed by the 15th amendment.

Let us review the Senate legislative history of each of these in turn:

First. School integration: The original administration bill included a declaration that the Supreme Court decisions in the school segregation cases were the law of the land and entitled to the support of both the executive and the legislature. Provisions for technical assistance to school districts seeking to integrate in accordance with the Supreme Court's decisions were included. Financial assistance was to be provided. The section was weak because it required State cooperation instead of permitting the direct intervention of the Federal Government to support any school district which desired to obey the law. Yet it was at least a move in the right direction.

Before the administration's section could come to a vote in the Senate, the House bill was passed without including this section.

Word went out that the President of the United States and the Attorney General of the United States were not particularly interested in this section. The enthusiasm of the minority leader for this part of his own amendment evaporated. To bring it before the Senate at all, it was necessary for the junior Senator from New York [Mr. KEATING] to move that the Senate consider the amendment of the Senator from Illinois [Mr. DIRKSEN].

To my regret, the Democratic whip, acting with the approval of the majority leader, moved to table the Keating amendment, and the motion carried by a vote of 61 to 30, with 9 absent.

Thirty-seven Democrats, 18 of them from the South, 4 from border States, and 5 from the Southwest, supported the 24 Republicans who followed their administration leaders.

Twenty Democrats, including all save two of those from the area north of the Ohio and east of the Mississippi, joined 10 Republicans in opposing the motion to table.

Thus the Senate, by a majority of over 2 to 1, refused to even consider a proposal to support that integration of our schools which the Supreme Court of the United States has so wisely and so justly declared to be the supreme law of the land.

Second. Fair employment practices: That there is widespread discrimination in employment because of race or color, not only in the South but in many areas of our country, has long been recognized. That this discrimination violates the equal protection of the laws clause of the 14th amendment is too clear for argument. Only last week the Special Senate Committee on Unemployment concluded that Negroes, together with other groups, were being discriminated against in terms of employment on a widespread scale, and recommended creation by legislation of a Federal agency to assist in eliminating such discrimination.

Yet the ink was hardly dry on our report before the Senate ignored the unanimous recommendation of its committee.

The administration bill in both the Senate and the House versions originally contained a pallid little section, said to have been supported strongly by the Vice President, which would have made a start in giving legislative authority to a commission charged with the duty of eliminating discrimination among the employees of Federal contractors. The section had no teeth; it had no enforcement powers. And yet, again the President of the United States, the Attorney General, and the minority leader joined with the majority leader in pulling the rug out from under their own legislative recommendation. In fact, the minority leader in this instance made the motion to table, himself. It carried by a vote of 48 to 38, with 14 absent. Supporting the motion to table were 27 Democrats, of whom all save 2 were from the South, the Southwest, and the border States. They were joined in by two-thirds of the Republicans, 21 in number, who loyally supported the President and the minority leader, somewhat to the chagrin of the Vice President of the United States.

In opposition to the amendment were 27 Democrats—50 percent of those voting—and 11 Republicans—34 percent of those voting.

Had the majority leader opposed the motion and brought with him his four colleagues from the Southwest, the resulting tie would have been broken in favor of the proposed amendment by the Vice President of the United States.

It is fair to assume the 14 absentees would have been split almost evenly on the motion.

Third. Protection for other civil rights guaranteed by the 14th amendment. This provision, often called part III, has been opposed by the Eisenhower administration ever since they pulled the rug out from under it in 1957 after it had successfully passed in the House of Representatives. It is considered by advocates of a meaningful civil rights bill to be the heart of such a measure. There are many who think it more important than the right to vote, since it would place the executive arm of the Federal Government firmly behind efforts of the Negro to attain equality in a wide variety of areas, including school segregation, equal access to public facilities and fair treatment in employment matters. It covers the waterfront in terms of assuring to the Negro his right to be treated as a first-class citizen.

The amendment was proposed by a bipartisan group of pro-civil rights Senators. The majority leader moved to table and his motion carried by a vote of 55 to 38, with 6 absent. Thirty-four Democrats followed their leader including, in addition to the Southern bloc, six Senators from the Southwest, and four from the border States.

Twenty-eight Democrats, including every one from the area north of the Ohio and east of the Mississippi, as well as a majority of those from the West, supported part III. They were joined by a noble band of 10 Republicans who had the courage to repudiate their leadership.

Had the majority leader felt differently and been prepared to exercise his influence with his Southwestern and Mountain States colleagues who numbered 10, part III might well have been passed by the Senate.

Three weeks later, when pressure to support the House bill had become heavy, the same proposal was tabled by a slightly larger vote, 56 to 34 with 10 absentees.

Thus the Senate turned its back on a proposal whose enactment is of vital importance to the cause of first-class citizenship for all Americans.

Fourth. Voting rights: From the beginning it was clear that the major controversy respecting the Civil Rights Act of 1960 would center around efforts to assure to Negro Americans the voting

rights guaranteed them by the 15th amendment to the Constitution.

After weeks of debate, the President of the United States has declared himself satisfied with the provision pressed through the Senate with the support of the Vice President and the majority and minority leaders. One cannot say that this provision is meaningless; but one can certainly assert that it is far less effective than it could and should be.

The debate has clearly disclosed, I think, that registration and voting are administrative and not judicial procedures. This is the case in each of the 50 States. Yet the bipartisan coalition ruthlessly fought down every effort to give effect to the recommendations of the Civil Rights Commission, to expand it so as to include local and State as well as Federal elections and to surround it with adequate judicial safeguards to prevent injustice.

Title VI of the bill as finally adopted plunges the courts deeply into the voting controversy. In my judgment, the referee proposal which it sets up is so full of the possibility of judicial delay, court congestion, and redtape that it affords an ineffective remedy indeed to disfranchised citizens.

Time alone will tell whether my judgment is correct. I can only say that it seems abundantly clear that some variety of the Federal registrar-Federal enrollment officer procedure would have been infinitely preferable.

The test vote in the effort to provide such an enrollment officer alternative to the administration plan came on the Clark-Javits amendment which was tabled by a vote of 51 to 43, with the bipartisan support of the majority and minority leaders, with the Attorney General of the United States out in the middle of the cheering section urging them on.

Twenty-seven Democrats, all save one from the South, Southwest, and border States, supported the leadership. Only nine were outside the Deep South.

Twenty-four Republicans—75 percent of their total—followed the minority leader.

Against the motion to table were 35 Democrats—56 percent of my party's total membership—and a gallant band of eight Republicans who defied their own leadership.

If we exclude the Deep South, Senate Democrats voted 35 to 9 against the motion to table.

Thus, in my judgment, a meaningful voting provision was defeated and we were left with a procedure later watered down even further, which I fear will do little good.

The other sections of the bill are so innocuous as not to be worthy of even passive mention.

It will be asked, in view of this, why do I vote for the bill? The question has given me grave concern. Finally I have concluded, on the basis of conversations I have had with some of my friends from the South, that there is a possibility that the bill will unlock some doors; that there are areas in the South which will voluntarily permit Negroes to register and vote under State law rather than forcing the invocation of the Federal procedure; and that there are a few other areas where there is a chance that the referee proposal will work.

Being unwilling to discourage by my vote even so small an amount of progress in the acquisition of constitutional rights nearly 100 years old, I have concluded to support the bill.

How can one explain the behavior of the Senate? I fear our membership merely reflects the indifference of the country at large to the plight of our Negro citizens. Perhaps it reflects more than that: A national failure to measure up to moral challenges; an unwillingness to distinguish right from wrong; a preoccupation with material things; that dangerous national frame of mind indulged, indeed encouraged, for over 7 years by the present administration and decried with such eloquence on the floor of the Senate a few weeks ago by the distinguished Senator from Arkansas [Mr. FULBRIGHT]. Our country, and the Senate with it, is not alert to the challenges of our times either in this pressing domestic issue or in matters of defense and education, disarmament, and world leadership. One would think we had never heard of South Africa.

Whose fault this is it is hard to say. But I, for one, believe we are approaching the end of an era; that the national mood will change; that new and vigorous leadership will arise and that the day will come again, and come soon, when the Senate and the Congress and another President will reverse the action they took on civil rights this long hard winter, and will rally again to its earlier ideals as it did 100 years ago when Julia Ward Howe wrote the Battle-Hymn of the Republic:

Mine eyes have seen the glory of the coming of the Lord;
He is trampling out the vintage where the grapes of wrath are stored;
He hath loosed the fateful lightning of His terrible, swift sword,
His truth is marching on.

* * * * *

He has sounded forth the trumpet that shall never call retreat;
He is sifting out the hearts of men before his judgment seat;
Oh, be swift, my soul, to answer Him! Be jubilant, my feet!
Our God is marching on.

In the beauty of the lilies Christ was born across the sea,
With a glory in His bosom that transfigures you and me;
As He died to make men holy, let us die to make men free,
While God is marching on.

He is coming like the glory of the morning on the wave,
He is wisdom to the mighty, He is honor to the brave,
So the world shall be his footstool, and the soul of wrong his slave,
Our God is marching on!

Mr. DIRKSEN. Mr. President, I yield 10 minutes to the distinguished junior Senator from Alaska [Mr. GRUENING].

Mr. GRUENING. Mr. President, my decision to vote in favor of the final passage of H.R. 8601—the so-called Civil Rights Act of 1960—was arrived at only after a long and careful review of its final provisions and after considerable hesitancy.

Labels can be deceptive as well as informative.

I am not one to believe that any bill will advance the cause of civil rights—will secure for all citizens of the United States, regardless of race, creed, or color, the full enjoyment of the rights guaranteed to them under the Constitution—merely because the bill bears the label of a civil rights act.

For I am well aware, Mr. President, that the full attainment, speedily, of these civil rights objectives can all too frequently be as much held back by the passage of legislation as it can be advanced.

It is now almost 3 years since the Civil Rights Act of 1957 was enacted by the Congress. It was hailed at the time—and has been since—as a significant accomplishment, since it was, after all, the first measure dealing with civil rights enacted by the Congress in over 80 years.

However, even in 1957 there were those in the Congress—strong advocates of securing the equal enjoyment by all of the constitutional guarantees—who had doubts about voting in favor of the final passage of the 1957 bill. They were fearful that the passage of a weak bill then would serve as a roadblock for years against the enactment of a really strong civil rights bill.

Almost 3 years have passed. During the 8 weeks which have ensued since February 15, while we have been talking at length about civil rights, we have all heard repeatedly about the lack of accomplishments under the 1957 Civil Rights Act.

Mr. President, I shall not attempt to assess responsibility for such lack of accomplishments. The Congress can but give to the executive branch of the Federal Government the tools—the laws—with which to perform a given task. The responsibility for the accomplishment of a task then rests with the Executive. The interest, the zeal, the determination, and the ingenuity with which the tools are employed must be supplied by the Executive. It is all too easy—and it happens all too frequently—for executive agencies to attempt to excuse their own lack of real desire to attain the objectives of a program by shifting the responsibility to the Congress and seeking additional laws. We see that in other fields, such as that of agriculture, with its surpluses and ever-mounting storage costs while the plight of many farmers steadily worsens.

Be that as it may, the question which will forever remain unanswered is whether—if no act at all had been passed in 1957—the forces impelling action on civil rights would have been so overwhelming that a much stronger bill would have been passed by the Congress in 1958.

Will the passage of this watered-down measure now before us for final action once more lessen future efforts to assure that individuals shall not be denied their constitutional right to vote?

Will the passage of this measure mean that those who should be pressing for

action along these lines will be lulled into a feeling that all has been accomplished, and that everyone who wishes to vote is secure in the right to do so?

Will the passage of this measure mean that the executive branch will be allowed once more to delay effective enforcement until such time as the demand becomes too great and it can then say: "We are not at fault. We need more laws."

If, at that time, Mr. President, the executive branch is controlled by the Republican Party—and I trust that it will not be—then it would ill behoove it to attempt to shift the blame to the Congress.

For the bill before us now is an administration bill. It has been reportedly so characterized by the distinguished minority leader.

The President is reported in the press as being well satisfied with this bill as it now stands. That is not surprising; for the President has done little, affirmatively, in the last 6 years—since the civil rights issue was reactivated by decisions of the Supreme Court of the United States—to show his sympathy for the establishment of the basic rights guaranteed by the Constitution for those disadvantaged by custom because of their race or color. This bill, which the President approves, has the tepid character of his negative views concerning medical care for the aged. If this administration, as has been indicated by its spokesman, desires credit for this civil rights bill, by all means let the credit go there.

The Attorney General of this administration has said that this is a workable voting rights bill. It has been shaped by him. The provisions in it are his. The deletions which, in my judgment, have greatly weakened it, have had his approval. The responsibility, therefore, for its future enforcement is this administration's.

I hope that he is right. We shall see. We shall watch. The test is with the Attorney General of this administration. While I disagree with him, and that disagreement is buttressed by the frank statements of some of our ablest colleagues on both sides of this issue, to the effect that this bill will do "very little" to increase voting that has hitherto been denied, I hope that their views will prove mistaken. I hope that they and I may be proved wrong. I hope that the Attorney General can make these provisions work so that we shall find that this is a really effective voting registration bill which will result not in long and costly law suits, not in the discouragement of voting in certain areas where the obstacles to registration and voting have been clearly spelled out by the administration's own Civil Rights Commission, but on the contrary, in enabling these citizens now disenfranchised because of their race or color actually to vote. If there are continued denials of voting rights on the basis of race or color we shall have to take up this issue anew and press for the enactment of truly remedial legislation.

In determining whether or not to vote in favor of the final passage of this bill, I was forced to make my determination on the basis of what was in the bill and not what I had hoped would have been in the bill.

I had hoped the bill would have contained, as so-called, part 3, giving needed powers for the enforcement of all civil rights under the Constitution. That was lost.

I had hoped that the bill would have a provision for technical assistance to localities undertaking to desegregate their schools. That was lost.

I had hoped that the bill would provide for effective checking on whether the policy of nondiscrimination on the basis of race or color in Government contracts was being pursued. That was lost.

I had hoped that, as we witnessed the gradual attrition of even the administration's own bill, by a process of tabling by the administration's own representative in the Senate, that some of these amendments, such as those proposed by the able junior Senator from Michigan, and in somewhat milder form by the distinguished junior Senator from Colorado, would make it possible for the colored voter, who had already been denied the right to vote in an area where a clear pattern and practice of discrimination had been shown, to avoid running again the gantlet of intimidation and economic or other reprisal by not being obliged to go back and apply to the same officials who had previously shown their opposition to have him vote. But these desirable, moderate, and, it seemed to me, wholly reasonable improvements, also went by the wayside by the same tabling process.

Then what have we gained?

Outside of the bill's provisions relating to voting rights—as to which provisions I have, as stated, serious doubts of their possible effectiveness—we have a provision for the enforcement of court orders—a provision which, in my opinion, merely reaffirms existing powers of the court—a provision relating to bombing—a provision making a Federal crime of what is already a State crime but having the virtue of the possibility of Federal enforcement and detection—and a provision requiring the retention of voting records. This later provision is a real gain—a real stride forward.

Because of this provision—because of the possibility that the Attorney General will act with more vigor than he has in the past and will prove that he is right and that the referee plan he has proposed is workable, I have decided to cast my vote in favor of the final passage of this bill. I do so despite what I consider the further weakening of the bill by the amendment sponsored yesterday by the minority leader against which I voted. The Washington Post, in an editorial published this morning, called this action of the Senate "a vote for confusion." I ask unanimous consent that the editorial be printed at the conclusion of my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD.

(See exhibit 1.)

Mr. GRUENING. Mr. President, it is my fear that this amendment jeopardizes, if indeed it does not tend to nullify, one of the most valuable aspects of the bill as it came from the House, namely, to provide safeguards in State and local elections, as well as Federal.

Finally, Mr. President, the denial of equal rights under the Constitution to citizens of the United States because of their race or color cannot continue indefinitely or be endured without striking at the very foundations of our Constitution. This is not a government where the rights of one group of citizens can be granted or denied by the actions of other citizens. Our citizens who are thus denied their constitutionally guaranteed rights do not—and should not—stand before us, hat in hand, beseeching our bounty. They are not here on sufferance. They seek merely what they have a right to exercise. To deny these rights or to infringe upon their exercise is to flaunt the very concepts and precepts on which the exercise of our own rights is based. We cannot destroy or deny the one without ultimately denying or impairing the other.

Mr. President, let it be said, however, that we have made substantial and gratifying progress in this country in the assertion of human rights regardless of race or color. That progress is continuing. It has not been easily achieved. To those who have suffered and continue to suffer discrimination, that progress must at times seem painfully slow. The protracted struggle that has centered around the bringing close to enactment of this very moderate voting rights bill furnishes graphic evidence of the difficulty of the task.

This is by no means a sectional problem, and while its abuses may vary and be graver in one part of the country than in another, let us not point the finger of reproach at any one section. Let us, to cite Scripture, not be unaware of the beams that exist in eyes in many parts of the Union. Whenever in the United States there is a denial of certain basic rights, either guaranteed by the Constitution or implicit in our presumed American faith in justice, equality and fair play, we do violence to the eternal principle that we should do unto others as we would have them do unto us. The democratic system is the application to the great society of that Golden Rule. It should be the guiding beacon of our national life.

Mr. President, I thank the minority leader for his courtesy in yielding this time to me.

I have now concluded my remarks.

EXHIBIT 1

[From the Washington Post, Apr. 8, 1960]

A VOTE FOR CONFUSION

Battle fatigue appears to be largely responsible for the strange amendment which the Senate wrote into its civil rights bill yesterday. Southern opponents of the bill had complained that its voting referee provision would permit the Federal courts to register voters previously rejected by State officials until the day before the election. This, they asserted, would be a discrimination against other citizens, who under State law, would have to register weeks or months be-

fore the election. In an attempt to meet this objection the Senate adopted, by a vote of 80 to 11, a curious amendment that has all the parliamentarians scratching their heads.

Before the amendment was adopted, the bill provided that if an application to register filed 20 days before the election had not been decided by election day, the court should issue an order authorizing the applicant to vote provisionally. Now a proviso has been added to the effect that the applicant may vote provisionally if he is "qualified to vote under State law." But if his qualification under State law had been determined, there would be no occasion for him to vote provisionally.

Sponsors of the amendment say that it is designed only to make clear that Congress does not intend to set aside State voting laws. The whole purpose of the voting referee plan, however, is to bypass the unfair operation of State laws, where a pattern of unfair disfranchisement has been shown to exist, and set up Federal machinery under which the victims of discrimination can register and vote regardless of State obstruction. Presumably the new amendment does not affect this Federal registration system, except in the case of provisional voting. It is mischievous chiefly because it introduces an element of uncertainty and confusion that no one at this point seems able to resolve.

This curious move is the more unfortunate because of the desire of most everyone to avoid a conference on the bill. To ensure its passage, the House will have to accept the Senate version. What a pity that the Senate did not at least take time to be sure of what it was doing.

Mr. DIRKSEN. Mr. President, I had contemplated at this time moving to lay on the table the motion of the Senator from Mississippi [Mr. EASTLAND] to recommit the bill to the Senate Judiciary Committee. However, I shall withhold the making of that motion, and—if I may still reserve my right to the floor—I shall now yield to my good friend, the distinguished senior Senator from Louisiana [Mr. ELLENDER].

The PRESIDING OFFICER. Is there objection?

Mr. SPARKMAN. First, Mr. President, may I ask the Senator from Louisiana and the Senator from Illinois to permit me to make some insertions in the RECORD at this time?

Mr. ELLENDER. Certainly.

Mr. DIRKSEN. Of course.

Mr. SPARKMAN. Mr. President, Senators will recall that when this debate first began, I inserted in the RECORD a copy of an editorial which appeared in the New York Times on February 9, 1894. It appears on page 2614 of the CONGRESSIONAL RECORD of February 16, 1960. I ask unanimous consent that the editorial be printed again at this point in the RECORD.

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

[From the New York Times, Feb. 9, 1894]

THE CLOSE OF A CHAPTER

The passage by the Senate of the repeal of the Federal elections law marks the close of a most important, and at times exciting, period in the history of the country since the war. The elections law was a supplementary war measure. Its avowed intention was chiefly to protect the Republican voters of the South who were at the time of its passage almost wholly Negroes, but it was applied to the whole United States, as the Constitution required, and there was no lack of use for it in the large cities and especially in New York.

The elections law was, however, vicious in the machinery it set up, and was in many ways badly administered. The appointment of the chief supervisors by the Federal courts practically for life imposed on the judiciary functions for which it is not fitted. These officers were at once judicial and executive. Their powers were large and not very well defined. The patronage which they could distribute was almost unlimited. No court could, except by a happy chance, hit upon men fitted for these varied tasks. Our judges are, by common consent, men of probity and impartiality, but something more is needed for the proper selection of appointees like these. The result was what might have been expected. The courts were indirectly discredited, and the personnel of the force created by the law was not of a high order. Moreover, there was no adequate responsibility under the law. In theory the courts could enforce responsibility, but in practice they did not and could not. There was practically no check on abuses, and the abuses were constant and general.

The most conclusive proof that the law was either badly constructed or badly administered, or both, is that when its friends were in full power, with all the authority and force provided by the law, they never succeeded in doing any lasting good under it and rarely tried to. They appointed large numbers of deputy marshals, they made a great show of investigation and supervision, they made arrests, generally on election day. There they stopped. Now, if the law was good for anything, and if the officers under it were careful and honest, the alleged offenders arrested ought to have been tried, convicted, and severely punished, so that election offenses would have become dangerous and rare. But almost nothing of this sort was done. It became a very general belief that the law was used for partisan purposes, that it was in no sense employed as a means of purifying the suffrage or protecting the rights of voters or repressing and punishing offenses against the suffrage, but that, on the contrary, it degenerated into a device for supplying patronage to the party in power and to some extent for annoying and intimidating the opposing party. The latter charge had but little evidence to support it. The former was only too obviously true.

When the Republicans in the 51st Congress sought to replace the elections law by one of much greater severity and scope, they necessarily admitted that the law had failed, and they were logically responsible for its failure. Now that the Democratic Party comes into power and could, if it choose, avail themselves of all the abuses of the law for which the Republicans had made precedents, the Republicans can give no reason why the law should not be repealed, and repealed it has been. Certainly the Democratic Party cannot be accused of interested motives in throwing away opportunities for patronage and influence which it has only to follow Republican examples in order to use. The repeal is in reality an act of patriotism and sound judgment, so far as Democratic motives are concerned. It marks, moreover, a definite abandonment of the policy of the centralization of power in the Federal Government. In theory there is much to be said for that policy. In practice it has generally worked badly, and often very badly. Its weak point is that under our system of government there is no reasonably efficient means of securing responsibility proportioned to centralized power. We can set up a powerful central machine, as was done by the election law, but there is no adequate control over it and no chance to enforce any. Another fact of importance is that when a machine of this sort is opposed in any State there is no disposable force to overcome the opposition. That would practically require a permanent and disciplined Federal police, which is so impracticable as to be absurd. We have probably seen the last for a long time of attempts at extending Federal action and influence to the details of government in the States, and from our past experience we have no reason to regret the fact.

Mr. SPARKMAN. Mr. President, since that time, I have followed closely the coverage of this debate in the New York Times. I had hoped there would be some reference to the former editorial policy of that newspaper. Indeed, I expected that some reference to the tragic experience of the city of New York under the old Federal election law would appear in the New York Times. It seems to me, Mr. President, that an objective and fair coverage of this subject would require that that be done. However, there has been little reporting of the abuses, the corruption, and the fraud in the city of New York, following enactment of the old Federal election law.

I should think that the people of New York City and the people of this entire country are entitled to know about what happened from 1871 to 1894. They are entitled to know the kind of abuses that are possible under legislation such as that now proposed.

Mr. President, the New York Times was not alone in its condemnation of the old Federal election law. Similar editorials appeared in other New York newspapers. Accordingly, I ask unanimous consent that the following editorials and news articles be reprinted at this point in the CONGRESSIONAL RECORD: An editorial from the New York Evening Post of Thursday, February 8, 1894; an editorial from the New York World of February 8, 1894; an editorial from the New York Sun of Thursday, February 8, 1894; a news article entitled "Will Reach the Vote Today," from the New York Times of February 6, 1894; and a news article entitled "Brisk Senatorial Colloquy," from the New York Times of Wednesday, February 7, 1894.

There being no objection, the editorials and the articles were ordered to be printed in the RECORD, as follows:

[From the New York Evening Post, Feb. 8, 1894]

The passage by the Senate of the bill repealing the Federal election laws ends a long agitation, for the measure has already passed the House and is sure to be signed by the President. While all of the Republicans in the Senate but one opposed this action, there is nothing like such unanimity among the members of the party. The more candid admit that the laws in question have utterly failed of their purpose, and in many cases have led to the grossest abuses. In short, where these laws have not been useless, they have been worse than useless, and it will be a gain to the cause of good government to remove them from the statute book.

[From the New York World, Feb. 8, 1894]

THE FORCE BILL GONE

The people voted that the force bill must go, and it has gone.

The Senate yesterday passed the House bill repealing the odious and obsolete Federal

elections law. The people of the several States thus have restored to them that control of their own elections which is fundamental in our system, which they enjoyed for nearly a century, and which should never have been disturbed.

The pretense of the Chandlers, Hoars, and Lodges that Republicans are more concerned for free and honest elections than Democrats are is as preposterous as is the assumption that Davenportism tends to secure such elections.

The law has totally failed in its object, which was to enable Republican Federal officials to count the entire census of black male citizens of the South as Republican voters, and to intimidate Democrats in the northern cities. It suggested force and led to the demand for bayonets at the polls. The people condemned it, and it is repealed.

[From the New York Sun, Feb. 8, 1894]

THE END OF A GREAT FIGHT

Yesterday was a red letter day for the democracy of these United States. There is all the more occasion for rejoicing, and mutual congratulation, and general encouragement, because the days coming to the democracy just now seem to be painted black oftener than with any bright color.

The passage by the Senate of the bill repealing the odious Federal election laws of 1871 completes a reform for which the Sun has been laboring with all of its heart for many years. The whole body of statutes enacted by the Republican Party in the flush days of unscrupulous, uncontrolled partisanship, for the oppression of Democrats particularly in the South and in New York City, is wiped out forever. The fight of resistance against the force bill, designed to perpetuate and perfect the hateful system of Federal interference at the polls, has been followed by an equally successful fight of aggression against the existing laws of Davenportism, with all that the term implies. Davenportism disappears now. The iron cage is smashed. The army of spies, tramps, and loafers at the polls, holding commissions from the U.S. Government as officers of the law, is mustered out finally, and for all time. The pledge in the very first paragraphs of the Democratic platform of 1892 has now been splendidly redeemed.

The signature of the President to the repeal bill will hardly be withheld. Although this whole campaign for a principle vital to democracy has been prosecuted by the party without practical assistance from Mr. Cleveland, and withot any evidence of sympathy or interest in that quarter, we can imagine no present motive on his part for a veto of the bill. Whatever may be Mr. Cleveland's personal indifference to Democratic ideas on the subject of Federal interference and centralization of power in the Executive, he is not likely to undertake the responsibility of blocking at the last stage this glorious and long-desired Democratic achievement.

The immense importance of the victory which we record this morning will be appreciated more and more as time goes by. The statutes repealed are 23 years old this month. They have existed during a period long enough to make a voter of an unborn boy. Next November, for the first time since 1871, citizens of every State will go to the polls to vote for Federal officers, free from danger of annoyance or arrest by the hirelings of any Davenport. Federal interference, with all of its disgraceful machinery of force and fraud, is at an end.

That is something to be sincerely thankful for. To Democrats everywhere, but especially to our brethren in the South and in this great Democratic city, the Sun renews the assurance of its distinguished consideration and loyal concern.

[From the New York Times, Feb. 6, 1894]

WILL REACH THE VOTE TODAY—THE FEDERAL ELECTIONS LAW DOOMED IN THE SENATE—MR. CHANDLER RETURNS AGAIN TO HIS DEFENSE OF THE STATUTE—HE IS TERRIBLY ALARMED OVER THE PROSPECTS OF THE SOUTHERN NEGRO—MR. PALMER, OF ILLINOIS, MAKES A STRONG POINT FOR REPEAL BY REFERRING TO REPUBLICAN INTERFERENCE IN HAWAII

WASHINGTON, February 5.—There is general Democratic satisfaction in the expectation that tomorrow afternoon the Senate is to dispose of the Federal elections bill. At 4 o'clock, if nothing happens to prevent, the contentions of the Republicans for a law they no longer need will come to an end, and the bill will receive the sanction of the upper House. There are several amendments pending, but the indications tonight are that they will not be adopted.

When Mr. Chandler took his seat last week, after having debated this measure a week or more, it was generally believed that he had said all that he might be expected to say on the subject. He bobbed up again today, however, and devoted some time to a discussion of "the superior question of man and his liberty." The particular man the New Hampshire Senator had in his mind was the colored man, and he argued at length in favor of national consideration and national protection for the colored citizen, over whom, Mr. Chandler fancies, his party is entitled to a peculiar control. He was followed by Mr. Frye, who delivered one of his characteristic stump speeches, in which he was prompted several times by Mr. Hoar when the pointed interruptions of Mr. Gray threatened to leave the Senator from Maine with no basis for his argument. There was nothing particularly interesting in the debate.

Mr. Chandler began by saying that the Senate turned now from the question of money to the superior question of man and his liberty. Banks and tariffs, stocks and trade, might rise or fall, but freedom was the common heritage of the American people. Controversies over silver and bonds were incidental and ephemeral. Vigilance to protect the lives of citizens and to secure the honesty of the suffrage was vital, and had to be eternal if the Republic was to live. He wished to speak briefly in behalf of the colored people of the country, who were sadly in need of national consideration and national protection.

In the course of his remarks Mr. Chandler engaged in a colloquy with Mr. Palmer, Democrat, of Illinois, who said he favored the repeal of the Federal election laws because they had proved to be utterly useless for the accomplishment of the purpose for which they had been designed.

"The Senator from Illinois," said Mr. Chandler, "in his new political associations, abandons the 15th amendment of the Constitution, and leaves the colored people in the Southern States without the ballot with which to protect themselves."

"So far from abandoning the 15th amendment," Mr. Palmer rejoined, "I regard it as one of the crowning triumphs of modern civilization and republican government. But, regarding these Federal election laws as a mere menace, as useless as offensive, and as injurious to both races, I propose to abandon them."

"The Senator," said Mr. Chandler, in a tone of bitterness, "is in favor of the amendment, but is against its enforcement. That is substantially his position."

"The Senator from New Hampshire," said Mr. Palmer, "favors the retention on the statute book of laws which he admits are worthless, so far as the colored people are concerned."

"I did not admit that they are worthless," Mr. Chandler corrected: "I admitted that they had not accomplished the result which they were designed to accomplish."

"If they have failed," Mr. Palmer asked, "why retain them?"

"If that argument is good," Mr. Chandler replied, "it is good against any laws which do not accomplish their purpose. I ask the Senator from Illinois whether he is in favor of blotting the 15th amendment from the Constitution and abandoning the attempt to secure suffrage to the 1,500,000 colored voters in the United States?"

"I would no more abandon the 15th amendment," Mr. Palmer declared emphatically, "than I would abandon the Declaration of Independence. I regard them as being essential parts of each other."

Mr. Palmer supported the bill because he believed that the Federal election laws were useless, misleading, and a menace to every community where they were put in force. It was contended on the other side of the Chamber, he said, that the colored people in the South had not their proper representation in Government affairs. "We have been recently engaged," said he, "in a discussion of the Hawaiian question. The total population of those islands is about 90,000. The white American population is less than 2,000, and yet those 2,000 whites own more than 74 percent of the entire property of the islands, the natives owning but four-fifths of 1 percent of it. And the whites have overthrown the Government and have proclaimed, or are about to proclaim, a Constitution with property qualifications. I have heard one of the leaders of the Republican Party in this Chamber declare, a few days ago, that those men there who have overthrown the native government were to be compared with the Washingtons, Russells, Sidneys, and other devotees of freedom. This is the view of the party that now claims to be the champion and preserver of the rights of the colored race."

Mr. Frye, Republican, of Maine, said that if the States could be depended upon to do what is just and fair they ought to be allowed to administer the election laws, but that if the States could not be depended upon the Federal election laws should be retained. He went on to relate, as a "twice-told tale," the Tammany naturalization frauds in New York in 1868, when over 40,000 foreigners were naturalized within 20 days, when Judge Barnard naturalized over 2,000 in a single day, when 8 witnesses stood for 2,200 men, and when certificates signed in blank were sold for a dollar apiece. Over 10,000 men had been registered in the city of New York from vacant lots, and the same men had repeated their votes on election day from 7 to 25 times. By that sort of business the State of New York had been carried for Horatio Seymour, the Democratic presidential candidate, against General Grant. The people of the United States had been thoroughly aroused when the report came, and, as a result of congressional investigation, the national election law was enacted. Did the Senator from Illinois not believe, Mr. Frye asked, that it was the duty of the United States to take cognizance of that awful, that monumental crime against the ballot in the great Empire State? He paused for a reply.

"I answer," said Mr. Palmer, "that the instance given by no means justified the law. The fact that there was a crime in New York furnished no reason for subjecting every other congressional district in the country to the suspicion of fraud and for putting supervisors over them."

[From the New York Times, Feb. 7, 1894]

BRISK SENATORIAL COLLOQUY—MESSRS. FRYE AND DANIEL AMUSE THEIR GALLERY AUDITORS—THE VIRGINIAN REPLIES TO INSINUATIONS AGAINST HIS STATE MADE IN DEBATE ON FEDERAL ELECTIONS BILL—GETS THE BETTER OF THE MAN FROM MAINE—FINAL VOTE TO BE TAKEN THIS AFTERNOON—LETTER FROM DAVENPORT DENYING CHARGES MADE IN NEWSPAPERS

WASHINGTON, February 6.—Owing to the anxiety of Senators to deliver 11th hour speeches for or against the Federal elections bill, the final vote on that measure will not be taken until late tomorrow afternoon. In anticipation of the close of the debate today, the galleries were crowded, and this fact may be responsible for the increased interest manifested in the subject by Senators.

Mr. Frye was moved today to deliver another stump speech which served mainly to widen his reputation as an unreasoning partisan, and General Hawley of Connecticut could not resist the temptation to defend the existing law. Much of Mr. Frye's speech was in defense of John I. Davenport. That interesting person was declared to be a "God-fearing citizen," despite the attacks made upon his character by Democrats throughout the country. Mr. Daniel made a strong defense of the pending bill, and threw some sidelights on Mr. Frye's partisanship which exasperated that gentleman and pleased the galleries. Mr. Hoar will have something to say tomorrow about the bill.

Before the day shall close, Mr. Davenport will be stripped of the power he has made outrageous use of.

After Mr. Hawley of Connecticut and Mr. Perkins of California had delivered set speeches against the bill, Mr. Frye took the floor. He quoted from Richmond (Va.) papers the headlines to reports of election frauds in a recent election in that State. He was asked by Mr. Daniel whether the Federal election laws had anything to do with those frauds. They had, Mr. Frye declared. The claim had been made that the Federal election laws ought to be repealed because the States could be trusted to prevent election frauds. He was asked by Mr. Daniel if there never had been election frauds in Maine, and he denied that there had been, although there had been an attempt by a Democratic Governor to steal a legislature.

But Mr. Frye had taken the floor, he said, not to make any attack on the State of Virginia, but to defend the character of John I. Davenport, who had been the subject of charges and calumnies in the two houses for the last 16 or 18 years. He knew Mr. Davenport well, and had a profound respect for him. His courage was admirable. He was utterly fearless. He had shown a fidelity in office such as had been seldom seen in any man. He had been true and honest.

Mr. Davenport had been made a scapegoat, just as Mr. Stevens had recently been made the scapegoat for President Cleveland's blunders as to Hawaii. Mr. Frye sent to the clerk's desk and had read a letter to himself from Mr. Davenport, dated today, denying a charge frequently made against him in connection with the appointment of deputy supervisors at the polls in New York. He also read extracts from the printed reports of congressional committees favorable to Mr. Davenport, both as to his conduct and his accounts.

In the course of the afternoon Mr. Daniel, of Virginia, secured the opportunity to reply to Mr. Frye. Whenever that Senator, he said, would rise and rebuke persons of his own party whom others thought worthy of criticism, he (Mr. Daniel) would realize that the Senator was on a plane with the Democrats of Virginia. The people of Virginia were not Pharisees, and if they committed wrong, they did not do it in the name of God and Christianity and civilization.

The Senator from Maine, when he chose to steal some islands and their people, dropped all his qualms and scruples and was ready to welcome that spurious and muddy transaction. That was the biggest piece of "counting out." The Senator from Maine, in the person of Minister Stevens and with the military at the polls, had counted in 2,000 Americans and counted out the rest of the people of those islands, changed the government, and was now ready to offer for sale a government which had been acquired by the aid of that commissioner of election.

Mr. Frye with one hand in his trousers pocket, and a paper in the other hand leaned carelessly against a desk and addressed remarks to Mr. Daniel in regard to elections in Virginia, and the two Senators carried on for several minutes a free and easy colloquy on that subject. The people of Virginia, Mr. Daniel said, would vainly try to please the Senator from Maine so long as they voted the Democratic ticket. The Senator from Maine, he added, with much bitterness of manner, had said that there were no precinct election frauds in Maine; there they only stole legislatures.

"That was a Democratic steal," Mr. Frye interposed.

"Oh, of course," Mr. Daniel resumed, sarcastically. "Of course it was a Democratic steal. The Senator never heard of a steal that was not a Democratic one."

"That is true," Mr. Frye asserted.

"Perfectly so, and naturally so," said Mr. Daniel. "He is as deaf as the old lady mentioned by Tom Hood who bought an ear trumpet—

" 'And the very next day
She heard from her husband at Botany Bay.'

"The Senator never heard of the Credit Mobilier business. Oh, no. He stuffed a whole cotton counterpane in his ear so soon as a newsboy ran down the street with his newspapers. He never heard of Indian frauds, or of 'star route' frauds. He only heard that every Republican born is a saint, and that every Democrat born is an imp. And I leave the Senator in that happy state. He does not need to be translated to another and better world in order to enjoy the perfection of happiness. 'Where ignorance is bliss, 'tis folly to be wise.' There he is and there he purposes to remain."

At the close of Mr. Daniel's remarks there was a short executive session, and the Senate at 4:30 adjourned until tomorrow.

Mr. CHURCH. Mr. President——

Mr. DIRKSEN. Mr. President, if I may reserve my right to the floor, then, with the forbearance of my distinguished friend, the Senator from Louisiana [Mr. ELLENDER], I shall yield 3 minutes to the Senator from Idaho [Mr. CHURCH].

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CHURCH. Mr. President, the Senate will soon reach a final vote on the Civil Rights Act of 1960. I shall vote for it, even though I had hoped the bill would be stronger and broader than it is. The amendments I favored, which would have both strengthened and extended the scope of the bill, have been rejected by majority vote of the Senate, and we are left with a bill that is largely restricted to voting rights.

The right to vote, of course, is the most fundamental right of a free citizen. It has long been extended to all our citizens, regardless of race or color, through the 15th amendment to the Constitution of the United States.

But it is nevertheless the case that, 90 years after the ratification of this amendment, large numbers of Negro citizens, in some parts of our country, are still being systematically denied the right to vote. The bill before us will furnish these Negro citizens with better legal remedies with which to enforce their right to vote.

I had hoped that we would deal more effectively with this matter than we have, and that we would enact a better bill than the one proposed by the Attorney General and endorsed by the administration. Nevertheless, the bill does represent progress in an area where progress has always come hard and slowly. I take some comfort in the certain knowledge that the struggle will be renewed in the Congress, and continued on many other fronts, until the dream of equality before the law is a reality throughout the length and breadth of this land. Since every step in this direction is worth taking, I shall support the passage of this Civil Rights Act of 1960.

Mr. DIRKSEN. Mr. President, at this time I yield to my distinguished friend, the senior Senator from Louisiana [Mr. ELLENDER], if I may do so and still may retain my right to the floor, in order that later I may move to lay on the table the motion to recommit.

The PRESIDING OFFICER (Mr. McGEE in the chair). Is there objection? Without objection, it is so ordered.

Mr. ELLENDER. Mr. President, earlier this week, I made two extended speeches in endeavoring to demonstrate that throughout the proud history of our Nation, the most zealously guarded right that each individual State sought to retain unto itself was the right to regulate suffrage.

As I pointed out, the 15th amendment merely protects the Negro's right to vote against denial or abridgment by a State. The pending legislation is nothing but an out-and-out attempt by Congress to further inject the long arm of the Federal Government into matters as to which it has absolutely no constitutional authority.

Local self-government has been the cornerstone of our growth and prosperity since the beginning of our history. Now, blessed by the winds of political expediency and political ambition, attempts are being made to strike at this very root of American freedom.

During my earlier speeches, I outlined the care with which our Founding Fathers protected the right of the States to determine their own standards of voting. In this connection, I began to read a study, which I have prepared, relating to the history of suffrage in each of the 50 States.

On Wednesday, before my time under the unanimous-consent agreement expired, I had discussed the history of suffrage in the States of New Hampshire, Massachusetts, Connecticut, Georgia, New Jersey, Pennsylvania, and Delaware.

Mr. President, it is my purpose during the course of my remarks today to discuss the rest of the Thirteen Original States, insofar as their suffrage laws were concerned—simply to show that the right of suffrage was most zealously guarded by those States. In fact, except for the fact that the Thirteen Original States retained for themselves the right to say who should vote and who should not vote, the chances are that our Federal Constitution would never have been adopted. Mr. President, I believe I proved, to the satisfaction of any reasonable Senator, that was the case.

I do not propose to go over that field again, but I shall simply direct my attention now to the rest of the original States. I have dealt with seven, so I have six more to go.

I desire now to continue reading from that study.

Maryland was chartered in 1632 by King Charles. In 1776 Maryland's constitution was formed. In the declaration of rights we find:

That the right in the people to participate in the legislature is the best security of liberty, and the foundation of all free government; for this purpose, elections ought to be free and frequent, and every man, having property in, a common interest with, and an attachment to the community, ought to have a right of suffrage. (Thorpe, 3, p. 1687, art. V.)

The qualifications appear in article II of the constitution:

That the house of delegates shall be chosen in the following manner:

All freemen, above 21 years of age, having a freehold of 50 acres of land, in the county in which they offer to vote, and residing therein—and all freemen, having property in this State above the value of 30 pounds current money, and having resided in the county in which they offer to vote 1 whole year next preceding the election, shall have a right of suffrage in the election of delegates for such county; and all freemen, so qualified, shall, on the first Monday of October 1777, and on the same day in every year thereafter, assemble in the counties in which they are respectively qualified to vote, at the courthouse in the said counties; or at such other place as the legislature shall direct; and, when assembled, they shall proceed to elect, viva voce, four delegates, for their respective counties, of the most wise, sensible, and discreet of the people, residents in the county where they are to be chosen, 1 whole year next preceding the election, above 21 years of age, and having, in the state, real or personal property above the value of 500 pounds current money; and upon the final casting of the polls, the four persons who shall appear to have the greatest number of legal votes shall be declared and returned duly elected for their respective counties. (Thorpe, 3, p. 1691, art II.)

In 1810 this was amended as follows:

ART. XIV. That every free, white, male citizen of this State, above 21 years of age, and no other, having resided 12 months within this State, and 6 months in the county, or in the city of Annapolis or Baltimore, next preceding the election at which he offers to vote, shall have a right of suffrage, and shall vote, by ballot, in the election of such county or city, or either of them, for electors of the President and Vice President of the United States, for Representatives of this State in the Congress of the United States, for delegates to the general assembly of this State, electors of the senate, and sheriffs. (Thorpe, 3, p. 1705, art. XIV.)

As I pointed out before, we are going to find, in the constitutions of each of the Thirteen Original States, language similar to the language I am now reading. It was a right that they themselves manifested; and today efforts are being made to take that right away from the States, to a large degree, and lodge it in the Federal Government. That is why we from the South who really and truly believe in States rights and in local self-government are so much against the pending measure.

In 1851 Maryland adopted a new constitution. In the declaration of rights we find the following:

ART. 5. That the right of the people to participate in the legislature is the best security of liberty, and the foundation of all free government; for this purpose elections ought to be free and frequent, and every free, white—

Accent on "white"—

male citizen having the qualifications prescribed by the constitution ought to have the right of suffrage. (Thorpe, 3, p. 1713, art. 5.)

This is set out fully in article I:

Every free white male person, of 21 years of age or upward, who shall have been 1 year next preceding the election a resident of the State, and for 6 months a resident of the city of Baltimore, or of any county in which he may offer to vote, and being at the time of the election a citizen of the United States, shall be entitled to vote in the ward or election district in which he resides, in all elections hereafter to be held; and at all such elections the vote shall be taken by ballot. And in case any county or city shall be so divided as to form portions of different electoral districts for the election of Congressman, Senator, delegate, or other officer or officers, then to entitle a person to vote for such officer, he must have been a resident of that part of the county or city which shall form a part of the electoral district in which he offers to vote for 6 months next preceding the election; but a person who shall have acquired a residence in such county or city entitling him to vote at any such election, shall be entitled to vote in the election district from which he removed until he shall have acquired a residence in the part of the county or city to which he has removed.

SEC. 2. That if any person shall give, or offer to give, directly or indirectly, any bribe, present, or reward, or any promise, or any security for the payment or delivery of money or any other thing to induce any voter to refrain from casting his vote, or forcibly to prevent him in any way from voting or to obtain or procure a vote for any candidate or person proposed or voted for as elector of President and Vice President of the United States, or Representative in Congress, or for any office of profit or trust created by the constitution or laws of this State, or by the ordinances or authority of the mayor and city council of Baltimore, the person giving or offering to give, and the person receiving the same, and any person who gives or causes to be given an illegal vote, knowing it to be so, at any election to be hereafter held in this State, shall, on conviction in a court of law, in addition to the penalties now or hereafter to be imposed by law, be forever disqualified to hold any office of profit or trust, or to vote in any election thereafter. (Thorpe, 3, pp. 1716, 1717.)

In 1864 a new constitution was ratified in Maryland by a slim plurality of 375 votes. Article 7 of the bill of rights provides:

That the right of the people to participate in the legislature is the best security of liberty and the foundation of all free government; for this purpose elections ought to be free and frequent, and every free white male citizen, having the qualifications, prescribed by the constitution, ought to have the right of suffrage. (Thorpe, 3, p. 1742.)

SECTION 1. All elections shall be by ballot, and every white male citizen of the United States, of the age of 21 years or upward, who shall have resided in the State 1 year next preceding the election, and 6 months in any county, or in any legislative district of Baltimore city, and who shall comply with the provisions of this article of the constitution, shall be entitled to vote at all elections hereafter held in this State; and in case any county or city shall be so divided as to form portions of different electoral districts for the election of Congressman, Senator, delegate, or other officer or officers, then to entitle a person to vote for such officer he must have been a resident of that part of the county or city which shall form a part of the electoral district in which he offers to vote for 6 months next preceding the election; but a person who shall have acquired a residence in such county or city entitling him to vote at any such election shall be entitled to vote in the election district from which he removed, until he shall have acquired a residence in the part of the county or city to which he has removed.

SEC. 2. The general assembly shall provide by law for a uniform registration of the names of voters in this State, which registration shall be evidence of the qualification of said voters to vote at any election thereafter held, but no person shall be excluded from voting at any election on account of not being registered until the general assembly shall have passed an act of registration, and the same shall have been carried into effect, after which no person shall vote unless his name appears on the register. The general assembly shall also provide by law for taking the votes of soldiers in the Army of the United States serving in the field.

SEC. 3. No person above the age of 21 years, convicted of larceny or other infamous crime, unless pardoned by the Governor, shall ever thereafter be entitled to vote at any election in this State, and no lunatic, or person non compos mentis, shall be entitled to vote.

SEC. 4. No person who has at any time been in armed hostility to the United States, or the lawful authorities thereof, or who has been in any manner in the service of the so-called Confederate States of America, and no person who has voluntarily left this State and gone within the military lines of the so-called Confederate States or armies, with the purpose of adhering to said States or armies, and no person who has given any aid, comfort, countenance, or support to those engaged in armed hostility to the United States, or in any manner adhered to the enemies of the United States, either by contributing to the enemies of the United States, or unlawfully sending within the lines of such enemies, money, or goods, or letters, or information, or who has disloyally held communication with the enemies of the United States, or who has advised any person to enter the service of the said enemies, or aided any person so to enter, or who has by any open deed or word declared his adhesion to the cause of the enemies of the United States, or his desire for the triumph of said enemies over the arms of the United States, shall ever be entitled to vote at any election to be held in this State, or to

hold any office of honor, profit, or trust under the laws of this State, unless since such unlawful acts he shall have voluntarily entered into the military service of the United States, and have been honorably discharged therefrom, or shall be on the day of election actually and voluntarily in such service, or unless he shall be restored to his full rights of citizenship by an act of the general assembly passed by a vote of two-thirds of all the Members elected to each House; and it shall be the duty of all officers of registration and judges of election carefully to exclude from voting, or being registered, all persons so as above disqualified; and the judges of election at the first election held under this Constitution shall, and at any subsequent election may, administer to any person offering to vote the following oath or affirmation: "I do swear (or affirm) that I am a citizen of the United States; that I have never given any aid, countenance, or support to those in armed hostility to the United States; that I have never expressed a desire for the triumph of said enemies over the arms of the United States; and that I will bear true faith and allegiance to the United States and support the Constitution and laws thereof as the supreme law of the land, any law or any ordinance of any State to the contrary notwithstanding; that I will in all respect demean myself as a loyal citizen of the United States, and I make this oath or affirmation without any reservation or evasion, and I believe it to be binding to me"; and any person declining to take such oath shall not be allowed to vote, but the taking of such oath shall not be deemed conclusive evidence of the rights of such person to vote; and any person swearing or affirming falsely shall be liable to penalties of perjury, and it shall be the duty of the proper officers of registration to allow no person to be registered until he shall have taken the oath or affirmation above set out, and it shall be the duty of the judges of election in all their returns of the first election held under this Constitution to state in their said returns that every person who has voted has taken such oath or affirmation. But the provisions of this section in relation to acts against the United States shall not apply to any person not a citizen of the United States who shall have committed such acts while in the service of some foreign country at war against the United States, and who has, since such acts, been naturalized, or may be naturalized, under the laws of the United States, and the oath above set forth shall be taken in the case of such persons in such sense.

SEC. 5. If any person shall give, or offer to give, directly or indirectly, or hath given, or offered to give, since the 4th day of July 1851, any bribe, present, or reward, or any promise, or any security for the payment or delivery of money or any other thing to induce any voter to refrain from casting his vote or forcibly to prevent him in any way from voting, or to procure a vote, for any candidate or person proposed or voted for as elector of President and Vice President of the United States or Representative in Congress, or for any office of profit or trust created by the constitution or laws of this State, or by the ordinances or authority of the mayor and city council of Baltimore, the person giving, or offering to give, and the person receiving the same, and any person who gives, or causes to be given, an illegal vote, knowing it to be such, at any election to be hereafter held in this State, or who shall be guilty of or accessory to a fraud, force, surprise, or bribery to procure himself or any other person to be nominated to any office, national, State, or municipal, shall on conviction in a court of law, in addition to the penalties now or hereafter to be imposed by law, be forever disqualified to hold any office of profit or trust, or to vote at any election, thereafter. (Thorpe, 3, pp. 1746, 1747.)

The feeling in Maryland made evident by these provisions needs no clarification.

The year 1876 saw another constitution, with little change in the bill of rights. However, the end of the war and the readmission of Confederate States to the Union is reflected by the omission of certain noticeable prohibitions and exclusions in the 1864 constitution:

ARTICLE I. ELECTIVE FRANCHISE

SECTION 1. All elections shall be by ballot; and every white male citizen of the United States of the age of 21 years or upward who has been a resident of the State for 1 year and of the legislative district of Baltimore City, or of the county, in which he may offer to vote for 6 months next preceding the election shall be entitled to vote in the ward or election district in which he resides at all elections hereafter to be held in this State; and in case any county or city shall be so divided as to form portions of different electoral districts for the election of Representatives in Congress, Senators, Delegates, or other officers, then to entitle a person to vote for such officer he must have been a resident of that part of the county or city which shall form a part of the electoral district in which he offers to vote for 6 months next preceding the election; but a person who shall have acquired a residence in such county or city entitling him to vote at any such election shall be entitled to vote in the election district from which he removed until he shall have acquired a residence in the part of the county or city to which he has removed.

SEC. 2. No person above the age of 21 years, convicted of larceny or other infamous crime, unless pardoned by the governor, shall ever thereafter be entitled to vote at any election in this State; and no person under guardianship, as a lunatic, or as a person non compos mentis, shall be entitled to vote.

SEC. 3. If any person shall give, or offer to give, directly, or indirectly, any bribe, present, or reward, or any promise, or any security, for the payment or the delivery of money, or any other thing, to induce any voter to refrain from casting his vote, or to prevent him in any way from voting, or to procure a vote for any candidate or person proposed, or voted for, as the elector of President and Vice President of the United States, or Representative in Congress, or for any office of profit or trust, created by the constitution or laws of this State, or by the ordinances, or authority of the mayor and city council of Baltimore, the person giving, or offering to give, and the person receiving the same, and any person who gives, or causes to be given, an illegal vote, knowing it to be such, at any election to be hereafter held in this State, shall on conviction in a court of law, in addition to the penalties now or hereafter to be imposed by law, be forever disqualified to hold any office of profit or trust, or to vote at any election thereafter. (Thorpe, 3, pp. 1783, 1784.)

SEC. 4. It shall be the duty of the general assembly to pass laws to punish, with fine and imprisonment, any person who shall remove into any election district or precinct of any ward of the city of Baltimore, not for the purpose of acquiring a bona fide residence therein, but for the purpose of voting at an approaching election, or who shall vote in any election district or ward in which he does not reside (except in the case provided for in this article), or shall, at the same election, vote in more than one election district, or precinct, or shall vote, or offer to vote, in any name not his own, or in place of any other person of the same name, or shall vote in any county in which he does not reside.

SEC. 5. The general assembly shall provide by law for a uniform registration of the names of all the voters in this State who possess the qualifications prescribed in this article, which registration shall be conclusive evidence to the judges of election of the right of every person thus registered to vote at any election thereafter held in this State; but no person shall vote at any election, Federal or State, hereafter to be held in this State, or at any municipal election in this city of Baltimore, unless his name appears in the list of registered voters; and until the general assembly shall hereafter pass an act for the registration of the names of voters, the law in force on the 1st day of June, in the year 1867, in reference thereto, shall be continued in force, except so far as it may be inconsistent with the provisions of this constitution; and the registry of voters, made in pursuance thereof, may be corrected, as provided in said law; but the names of all persons shall be added to the list of qualified voters by the officers of registration, who have the qualifications prescribed in the first section of this article, and who are not disqualified under the provisions of the second and third sections thereof.

SEC. 6. Every person elected or appointed to any office of profit or trust, under this constitution, or under the laws, made pursuant thereto, shall, before he enters upon the duties of such office, take and subscribe the following oath or affirmation: "I, ———, do swear (or affirm, as the case may be), that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State of Maryland, and support the constitution and laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of ———, according to the constitution and laws of this State (and, if a Governor, senator, member of the house of delegates or judge), that I will not, directly or indirectly, receive the profits or any part of the profits of any other office during the term of my acting as ———."

SEC. 7. Every person hereafter elected or appointed to office in this State, who shall refuse or neglect to take the oath or affirmation of office provided for in the sixth section of this article, shall be considered as having refused to accept the said office; and a new election or appointment shall be made, as in the case of refusal to accept, or resignation of an office; and any person violating said oath shall, on conviction thereof, in a court of law, in addition to the penalties now or hereafter to be imposed by law, be thereafter incapable of holding any office of profit or trust in this State.

On November 4, 1913, a constitutional amendment was ratified which in effect empowers the general assembly to remove the disqualification imposed upon voters convicted of vote selling. That amendment, which is an addendum to section 3, reads:

But the general assembly may in its discretion remove the above penalty and all other penalties upon the vote seller so as to place the penalties for the purchase of votes on the vote buyer alone.

In 1918 Maryland ratified a constitutional amendment—section 1A—dealing with absentee voting by members of the Armed Forces, as follows:

SEC. 1A. The General Assembly of Maryland shall have power to provide by suitable enactment for voting by qualified voters of the State of Maryland who are absent and engaged in the military or naval service of the United States at the time of any election from the ward or election district in which they are entitled to vote, and for the manner in which and the time and place at which

such absent voters may vote, and for the canvass and return of their votes.

The right to cast an absentee ballot was extended in 1954 to all qualified voters, by amendment of section 1A of article I:

SEC. 1A. Absent voters: The General Assembly of Maryland shall have power to provide by suitable enactment for voting by qualified voters of the State of Maryland who are absent at the time of any election from the ward or election district in which they are entitled to vote, and for the manner in which and the time and place at which such absent voters may vote, and for the canvass and return of their votes.

In 1956 the voters of Maryland again amended section 1A to extend the absentee-voting privilege to those qualified voters who are unable to vote personally because they are confined to bed or in a hospital by physical disability:

SEC. 1A. Proposed amendment: The General Assembly of Maryland shall have power to provide by suitable enactment for voting by qualified voters of the State of Maryland who are absent at the time of any election from the ward or election district in which they are entitled to vote and for voting by other qualified voters who are unable to vote personally by reason of physical disability which shall confine said voters to a hospital or cause them to be confined to bed, and for the manner in which and the time and place at which such absent voters may vote, and for the canvass and return of their votes.

The 1956 general election held in November of that year also brought about changes in sections 1 and 5 of article I, both dealing with the elective franchise.

Section 1 was brought into conformance with the 15th and 19th amendments to the U.S. Constitution, by deleting the qualifying words "white male" immediately preceding the word "citizen" in the opening sentence of section 1:

SECTION 1. Proposed amendment: All elections shall be by ballot; and every citizen of the United States, of the age of twenty-one years, or upward, who has been a resident of the State for one year, and of the legislative district of Baltimore City, or of the county, in which he may offer to vote, for six months next preceding the election, shall be entitled to vote, in the ward or election district, in which he resides, at all elections hereafter to be held in this State, and in case any county, or city, shall be so divided as to form portions of different electoral districts, for the election of Representatives in Congress, Senators, Delegates or other officers, then, to entitle a person to vote for such officer, he must have been a resident of that part of the county, or city, which shall form a part of the electoral district, in which he offers to vote, for six months next preceding the election; but a person, who shall have acquired a residence in such county or city, entitling him to vote at any such election, shall be entitled to vote in the election district from which he removed, until he shall have acquired a residence in the part of the county, or city, to which he has removed.

Section 5 was also amended at the November 1956 election to delete the reference to the old 1867 laws with respect to the registration of voters:

SEC. 5. Proposed amendment: The general assembly shall provide by law for a uniform registration of the names of all the voters in this State, who possess the qualifications prescribed in this article, which registration shall be inconclusive evidence to the judges of election of the right of every person, thus registered, to vote at any election thereafter held in this State; but no person shall vote, at any election, Federal or State, hereafter to be held in this State, or at any municipal election in the city of Baltimore, unless his name appears in the list of registered voters; the names of all persons shall be added to the list of qualified voters by the officers of registration, who have the qualifications prescribed in the first section of this article, and who are not disqualified under the provisions of the second and third sections thereof.

A discussion of the prohibitions affecting citizens of the Confederacy is found in "The Self-Reconstruction of Maryland," by William Starr Myers:

The late autumn of the year 1864 found the Union men strongly entrenched in power in Maryland. Aided by the sympathy of the National Government—both active and passive—they had during the preceding 6 months elected a State convention, formed a new constitution which abolished slavery and made many radical changes in the government, and accomplished its adoption at the polls. A narrow majority of 375 out of a total of 59,973 votes cast had been secured for the constitution only by the somewhat doubtful expedient of permitting Maryland soldiers in the field to vote on the question, their overwhelming approval altering the adverse result in the State at large. But the Union party leaders felt no uneasiness as far as the future was concerned, for the constitution of 1864 was designed, rightly or wrongly, not only to free the slaves but to secure a permanent hold of the party in power. The element was known as the Union Party during the war, and was composed of the more loyal and active citizens of the State, who not only desired that Maryland should stand by the Union, but believed that the South should be conquered and that President Lincoln and the national administration should be given hearty and unswerving support. The party included men who had been of various political affiliations in times past, and it held together fairly well in spite of radical differences of opinion on many topics of State and National policy. The Republican Party did not exist under that name till at least a year after the close of the war, and the process of its formation will be shown in the events about to be narrated.

The Democratic Party in the State, defeated and discredited, still kept up all the active opposition of which it was capable. It condemned the policies of Lincoln and his administration, and more or less acknowledged the right of the Southern States to secede, though all the while protesting its loyalty to the Union, and its hope that Maryland would remain in the old federation.

The new constitution is worthy of careful attention. The Union Party based their hopes on those provisions which were designed to exclude from the franchise all southern sympathizers and other disloyal persons, and furthermore they intended so to carry out its mandate for a registration of the voters of the State that their opponents would be further rendered powerless at the polls. (Twenty-seven Johns Hopkins Studies, pp. 9 and 10.)

The constitution directed, in addition, that the legislature should pass laws requiring the voter's oath to be taken by the President, directors, trustees, or agents of corporations created or authorized by the laws of this State, teachers or superintendents of the public schools, colleges, or other institutions of learning; attorneys at law, jurors, and such other persons as the general assembly shall from time to time prescribe. Moreover, a very dangerous power was placed in the hands of the judges of election, who alone were permitted to decide as to what was conclusive evidence of the right of a person to vote. The sinister effects of this provision soon made themselves felt, and as we shall see, almost led to bloodshed in the exciting days that followed.

The aspect of military affairs in the South at this time could only add to the confidence of the Union men of Maryland. It was during the autumn of 1864 that Grant, after the awful slaughter of the Wilderness and Cold Harbor, was at last tightening his grip on Lee at Richmond and Petersburg. Sherman, by his masterful campaign from Resaca to Atlanta, overcame the brilliant strategy of Johnston and the reckless bravery of Hood, and entered upon his march to the sea. Sheridan defeated Early and drove him out of the Shenandoah Valley, and finally, to crown all, Thomas annihilated Hood's army at Nashville. Surely the Confederacy was in its death throes, and the Union would be saved. This was no time to look for weak-kneed sympathy with rebellion.

An election for National and State officials was to take place on November 8, 1864. Gov. Augustus W. Bradford on November 3 issued a proclamation or open letter addressed to the judges of election, giving it as his opinion that this would be the first election under the new constitution (by executive proclamation of October 29, it went into effect on November 1, 1864), and saying that it was obligatory upon the judges to observe the requirements and administer the test oath to all applying to vote.

A large number of these officials who were to conduct the election in Baltimore City, said to have been about one-third of the total for that district, held a meeting in the criminal courtroom on November 3, and unanimously decided to administer the oath to all voters. This oath was not to be taken as conclusive evidence of loyalty, but in addition citizens were to be sworn to give true answers to such other questions as should be propounded to them, in order to satisfy the judges of their right to the ballot. A second and more largely attended meeting of the judges was held in the same place on November 7, to consider the question which had arisen and caused some controversy, as to whether they had the right to commit perjury, and if so, whether or not they should proceed to use it. After some debate, it was decided to leave this question to individual discretion, but to keep a list of the rejected votes for future action. This matter seems in the end to have made little trouble at the election, which was very quiet, many persons of doubtful patriotic status refraining from an attempt to vote. There were few arrests by order of the judges.

Great interest in this election was aroused by the fact that not only was a full State ticket to be voted upon, but electors for President and Vice President also were to be chosen. The Union Party ratified the national Republican nominations of Abraham Lincoln and Andrew Johnson, and held its State convention on October 18, 1864, in Temperance Temple, Baltimore. A very patriotic platform was adopted, declaring the determination to stand by the administration until the wicked rebellion had been crushed out, and every rebel made to bow in submission to the Constitution and the laws of the land, and every foot of territory brought under the dominion of the Federal Government. Candidates were nominated for all the State offices, headed by Thomas Swann, of Baltimore City for Governor, and Dr. Christopher C. Cox, of Talbot County, for Lieutenant Governor. The Democratic Party made its nominations through its State central committee, which met in Baltimore on October 27, and arranged a ticket including Judge Ezekiel F. Chambers, of Kent County, for Governor, and Oden Bowie, of Prince Georges County, for Lieutenant Governor.

The result of the election was, as had been expected, a victory for the Union Party, the vote being as follows: For Governor, Swann, 40,579; Chambers, 32,068; Swann's majority, 8,511. For Lieutenant Governor, Cox, 41,828; Bowie, 32,178. Lincoln carried the State by 7,432 majority, and for Congress, Edwin H. Webster, of Harford County, Charles E. Phelps, of Baltimore City, and Francis Thomas, of Allegany County, were successful in the second, third, and fourth districts, respectfully. The Democrats, however, carried two districts, electing Hiram McCullough, of Cecil County, in the first, and Benjamin G. Harris, of St. Mary's County, in the fifth.

In the general assembly of the State the Union Party secured a large majority in the house of delegates, but the results of the election showed that the membership of the Senate would stand: Democrats 13, Union Party 11. Fortunately for the latter, W. M. Holland, Democratic senator-elect from Dorchester County, resigned on November 15, saying that circumstances of a domestic character beyond his control made it extremely inconvenient for him to serve. A special election was held on December 23 to fill the vacancy and Thomas K. Carroll, the Union candidate, was elected by a good majority. This made a tie on a party vote, but the deciding vote would be cast by Lieutenant Governor Cox. In spite of test oaths, partisan judges of election, and the supporting influence of the National Government, the Democratic Party in Maryland had made a fairly good showing, and there was a possibility of the Union control being shaken, or even broken, at any time. This was evidently realized, and efforts were at once made by the leaders of the latter party to guard against any such contingency. An editorial in the Baltimore American on the preceding October 19 had said:

"It is of the utmost importance that the control of the affairs of Maryland should be in the hands of capable, honorable, and loyal men, who will administer them not only to the direct benefit of the State itself but with regard to the maintenance and prosperity of the entire Union. The fortunes of Maryland and of the Union are indissolubly linked together, and to fill the State offices with men who have the integrity of the whole Union at heart is the true way to advance the interests of the State itself."

This statement voices the opinion of the more sober and responsible leaders in the Union cause, and gives a very fair idea of the principles upon which they based their actions during the political struggles of the following 2 years.

The general assembly met at Annapolis on January 4, 1865. In his message Governor Bradford recommended for passage various measures designed to carry out certain provisions of the new constitution, and in addition he desired that action be taken looking toward the procuring of compensation from the National Government for slaves emancipated under the State constitution, in accordance with President Lincoln's message of March 6, 1862. Also, he argued sensibly that some other time and tribunal than the day and judges of election be provided, to determine who may vote under the new laws and regulations. The neglect on the part of the legislature of this commonsense matter of justice and order was another cause of the turmoil and trouble of the succeeding years.

According to article II, sections 1 and 2, of the new constitution, the term of office of Governor Swann and Lieutenant Governor Cox was to commence on January 11, 1865, but the new executive was not to enter upon the discharge of his duties until the expiration of the term for which Governor Bradford had been elected. The latter had been inaugurated on January 8, 1862; hence, he held office until January 10, 1866, and continued the able administration he had given the State during the preceding years of trial and perplexity.

The inauguration of the new executive and his subordinate took place in the senate chamber at Annapolis on the appointed day. Governor Swann's inaugural address called upon the legislature to forget the dissensions and heartburnings of the past and come together once more, in a spirit of conciliation and harmony, to give our best energies, as one party, to the work of reconstruction and reorganization upon which we are entering with such prospects of admitted and assured success. He favored foreign colonization of Negroes, recommended an attempt to procure national compensation for the slaves, and significantly closed as follows:

"It is not a very agreeable reflection to the State of Maryland, in looking back upon the past, that many of her citizens have entertained and not infrequently expressed sympathies with the objects of this rebellion. Such evidences of disaffection at the South have been summarily dealt with heretofore, by the offer of the alternative of the oath of allegiance to the so-called Confederate States or prompt expulsion beyond their lines. The recognition of such a rule here would doubtless have been received as in the highest degree tyrannical and oppressive. It is hardly reasonable to expect, however, that this Government will permit itself to be sacrificed by those upon whom it has a right to rely, and who have made their election to share the protection of its laws. In standing by the Union, Maryland will know how to discriminate between its friends and enemies, and the time has passed when those who really desire its dissolution will be permitted to make a virtue of their disloyalty or to claim participation in the political power of the State. Differences of opinion upon National and State politics may exist without treason, but the paramount obligation of loyalty cannot be compromised, and the citizen who turns away from its duty of allegiance to his Government—no matter upon what pretext—forfeits the privileges which it confers and the protection which attaches to the rights of citizenship."

Lieutenant Governor Cox immediately entered upon his duties as president of the senate, the office of Lieutenant Governor having been created by the constitution of 1864.

The senate on February 14, by a vote of 11 yeas to 10 nays, unseated, on the ground of disloyalty, Littleton Maclin, Democratic senator from Howard County; and Republican opponent, Hart B. Holton, was declared elected. Samuel A. Graham, of Somerset County, contested upon the same grounds the seat of Levin L. Waters, the Democratic senator from that county, but the matter was deferred to the next session of the legislature in order that further testimony in the case might be taken, and was finally dropped, perhaps in consideration of the fact that a Union Party majority in the senate was now secured.

Turning our attention to the work of the legislative session, we find that on February 1 Governor Bradford submitted to both houses the 13th amendment to the Constitution of the United States. It was advanced to its third reading on the same day by the house of delegates, passing its second reading by a vote of 53 yeas to 24 nays. The senate referred it to a committee and on February 3 finally passed it by a strict party vote of 11 affirmative from the Union Party, 10 negative from the Democrats. The house immediately passed it on its final vote, by acclamation.

Some little strife was stirred up over the question of the election of a U.S. Senator to fill out the unexpired term of the late Thomas H. Hicks, but John A. J. Creswell, of the Eastern Shore, was finally chosen by a large majority on March 9, his leading opponent, Lieutenant Governor Cox, having withdrawn from the contest. Two most important bills were passed by the assembly at this session. One was the act dealing with the status of the colored population of the State and was voted by large majorities on March 24. All the disabilities which had necessarily attached to the Negro as a consequence of the institution of slavery were removed, with two exceptions, one disqualifying Negroes from being witness in cases where white men were concerned, and the other authorizing Negroes to be sold for crime for the same period that a white man might be confined in the penitentiary for the same offense.

The other bill was to provide for the registration of the voters of the State according to the requirements of the new constitution. It was reported in the house of delegates, on March 8, 1865, and after a hard struggle against it on the part of the opposition it was passed on March 22, by the vote of 51 yeas to 23 nays. The senate, after more vain opposition on the part of the Democrats, passed it finally on March 24, by a vote of 13 to 6. This act, famous in the history of the State, which formed a center for most of the political strife of the period, provided that the Governor was to appoint three citizens most known for loyalty, firmness, and uprightness as registers in each ward or election district, also three men to register the soldiers and sailors of the State, who were to visit the several regiments, camps, and hospitals, and have the results placed upon the books of the various districts. From these lists, entry on which was indispensable in order to exercise suffrage, they were to exclude all disloyal persons, and might even refuse to permit them to register, after taking the oath of allegiance.

To these officers of registration was further given power—"to compel the attendance of witnesses for the purpose of ascertaining the qualifications or disqualifications of persons registered; they shall have power to issue summons, attachments, and commitments of any sheriff or constable, who shall serve such process, as if issued by a judge of the circuit court, or a justice of the peace, and shall receive the same fees and in the same manner as allowed by the law in State cases."

The intent of the act was well summed up in an editorial of the Baltimore Sun of July 11, 1865, as follows:

"It will be seen that the question of the right of suffrage under the Constitution and the law, is left entirely to the discretion and judgment of the various officers of registration, who are to be appointed by the Governor, in the city and counties, from which judgment there is no appeal—and the disqualification is perpetual unless the person is restored to civil rights through military service or a vote of two-thirds of all the members elected to each house of the general assembly."

The following clause included in the bill as originally reported to the house of delegates was stricken out by a majority of only one vote in that body:

"Section 19, be it enacted. That the officers of registration for the purpose of ascertaining more fully whether any person is disqualified under the fourth section of article first [of] the constitution, shall, if such person's right is challenged, or they have not personal knowledge, propound the following among other questions: Have you ever given aid to the rebellion by advice, by giving or sending information? Have you ever given or sent money, clothing, provisions, medicine, or any munitions of war to persons engaged in the rebellion? Have you ever given shelter or protection to persons engaged in the rebellion? Have you ever advised or encouraged any person to enter the rebel service? Have you ever assisted anyone to enter such service by furnishing them with money, provisions, advice, letters, or information?

Have you ever in conversation or by writing justified those engaged in entering into the rebellion? Have you ever expressed a wish or desire for the success of the rebel arms or for the defeat of the Union arms? Have you ever rejoiced over any of the successes of the rebel arms or defeat of the Union arms? Have you ever desired or wished that the rebel forces might defeat the Union forces?"

It would be difficult to imagine a more stringent or dangerous measure, one more hostile to the idea of a constitutional and orderly democratic government, or one more open to abuse.

After spasmodic attempts to pass a measure requiring the oath of allegiance of all officers of corporations, and another calculated to secure compensation for emancipated slaves from the U.S. Government, but from which nothing ever came, the legislature finally adjourned on March 27, 1865.

It is now necessary, in order to make our narrative complete, to retrace our steps a little in point of time. During this period the important question of the Negro population was agitating the people of Maryland.

All slaves had become free on November 1, 1864, when the constitution went into effect, and there were now nearly 90,000 "freedmen" to be dealt with, besides a nearly equal number of Negroes who had been free when abolition was accomplished. When we think of this herd of human beings, little more than half civilized, poor, ignorant, and helpless, suddenly raised in legal status from a position of servitude to the proud estate of man, with all the attendant duties and obligations, we must realize that they still remain completely under the power of the white population. A few wished to treat them as being what they were in fact, children in intelligence with an almost unlimited potentiality of physical power, but the larger number naturally looked upon them with the contempt of former masters. Sometimes, at the other extreme, there was foolish talk about immediate social and political equality.

When the October election showed the adoption of the constitution, the major part of the people of Maryland loyally acquiesced in the result, but many of the more tenacious slaveholders speedily took advantage of an old provision in the "black code" of State laws that Negro children could be bound out for terms of apprenticeship without the consent of their parents. With the more or less open connivance of many of the court officials they had the slave children whom they owned apprenticed to them for the term of their legal minority, and usually with absolute disregard of the wishes of the parents, who were so soon to come into their natural rights. This was in many cases done before the first of November, when constitutional abolition took effect, and before the parents had any legal right to object. Even after this date the same practice was continued, Negro children being in many instances forcibly taken from their homes, and all their newly given rights ignored.

Realizing the danger that a species of slavery or peonage would thus be perpetuated in spite of the emancipation movement, and being besieged by the Negroes and their white sympathizers with complaints of illegal treatment, Maj. Gen. Lew Wallace, commander of the Middle Department of the U.S. Army with headquarters in Baltimore, decided to take matters into his own hands until the Union Party could cause the proper measures of protection to be taken at the ensuing session of the general assembly. On November 9, 1864, he issued General Orders No. 112, which created a "freedmen's bureau" for the department, with Maj. William M. Este, A.D.C., in charge. The "Maryland clubhouse" on the northeast corner of Cathedral and Franklin Streets, Baltimore, was ordered to be used as headquarters of the bureau and as a Negro hospital, under the name "Freedman's Rest." (The Maryland club was considered to be an organization particularly obnoxious to loyal people, on account of the known southern sympathies of many of its members. This part of the order, however, was revoked.) The reasons for this action were stated in the following preamble to the order:

"Official information having been furnished, making it clear that evil disposed parties in certain counties of the State of Maryland, within the limits of the middle department, intend obstructing the operation, and nullifying, as far as they can, the emancipation provision of the new constitution; and that for this purpose they are availing themselves of certain laws, portions of the ancient slave code of Maryland, as yet unrepealed, to initiate as respects the persons heretofore slaves, a system of forced apprenticeship; for this, and for other reasons, among them that if they have any legal rights under existing laws, the persons spoken of are in ignorance of them; that in certain counties the law officers are so unfriendly to the newly-made freedmen, and so hostile to the benignant measure that made them such, as to render appeals to the courts worse than folly, even if the victims had the money with which to hire lawyers; and that the necessities of the case make it essential, in order to carry out truly and effectively the grand purpose of the people of the State of Maryland * * * (therefore) there should be remedies extraordinary for all their (i.e., the freedmen's) grievances—remedies instantaneous without money or reward—and somebody to have care for them, to protect them, to show them the way to the freedom of which they have yet but vague and undefined ideas."

The order provided further that all freedmen were to be considered under special military protection until the legislature should by its enactments make such protection unnecessary, that provost marshals in their several districts, "particularly those on the eastern and western shores," should "hear all complaints made to them by persons within the meaning of this order" and "collect and forward information and proofs of wrongs done to such persons, and generally * * * render Major Este such assistance as he may require in the performance of his duty." Finally, "lest the money derived from donations, and from fine collected, prove insufficient to support the institution in a manner corresponding to its importance, Major Este will proceed to make a list of all the avowed rebel sympathizers resident in the city of Baltimore, with a view to levying such contributions upon them in aid of the freedmen's rest as may be from time to time required." Early in January, General Wallace abolished the freedmen's bureau in Maryland and made his report to the general assembly. A reading of this report and the documents submitted therewith should fill every fairminded person of today with a deep sympathy for the Negroes in their helpless condition at this time. The details there disclosed of all the suffering, sorrow, and injustice which they endured render one heartsick, even though an allowance be made for the exaggerations of heated partisanship and an excited state of public feeling.

As we have seen, the legislature, in response to the report, passed a bill removing practically all the disabilities from the Negro population which had been laid upon them under the slave code, and affairs gradually settled themselves according to the new economic and social conditions which are still in existence today. This readjustment did not come all at once, but only after much injustice and many wrongs had been committed by both whites and blacks. (At as late a date as Nov. 1, 1866, Gen. O. O. Howard, chief of the national "freedmen's bureau," stated in his report to the Secretary of War that "frequent complaints are received of outrages and atrocities without parallel committed against freedmen" in portions of Maryland.) Richmond fell before Grant's victorious army on April 3, 1865, and by the end of the month both Lee and Johnston had surrendered. This was the practical ending of the military operations of the Civil War. About 20,000 men from Maryland had taken service in the Armies of the Confederacy, and the survivors were soon paroled and began to return home in large numbers. The Union men were much elated and joined in a hearty celebration of the national triumph of their cause, but as the ex-Confederates began to show themselves about the streets and to frequent their old haunts, and a large immigration from the South, particularly from Virginia, began to set in, this feeling gave way to alarm, too often accompanied by signs of prejudice and vindictiveness. The party in power at once began to foresee and to fear what finally took place—an active coalition between the Democrats and the southern sympathizers and the eventual overthrow of the Union Party in the State. The Registration Act had been passed just in time, and when signs of opposition to it began to appear its advocates decided to fight to the last ditch to keep it on the statute books and in active operation.

The assassination of President Lincoln on April 14, 1865, threw the Union people for a time into a panic, and naturally increased hostility toward the ex-Confederates, whom they imagined to be undertaking a new method of warfare, by means of murder and secret criminal intrigue. Gen. W. W. Morris, for a short time in command of the Middle Department, issued orders on April 15, placing Baltimore under stringent martial law, and including a provision that "paroled prisoners of war (rebels), arriving in this department are hereby ordered to report at once to the nearest provost marshal, in order that their names may be registered, their papers examined, and such passes furnished them as may be necessary for their protection. Such prisoners of war will not be permitted to wear the uniform of the army and navy of the so-called Confederate States, but must abandon their uniforms within 12 hours after reporting to the provost marshal, and adopt civilian dress."

General Wallace, who resumed command a few days later, extended these repressive measures, and was actively assisted by the officers of the U.S. Army stationed in various parts of the State. After the death of J. Wilkes Booth and the capture of the other conspirators, the military bonds were gradually relaxed, the National Government wisely leaving the settlement of the various difficulties in Maryland to the people of the State.

As a good illustration of the temper of this particular time, the following is quoted from an editorial in the Baltimore American for May 6, which was entitled "The Brand of Cain." After stating that Jeff Davis "stands convicted as a common felon" and charging him with all manner of crimes, it proceeds:

"He has sanctioned and commissioned agents of piracy, arson, and butchery. He has sent secret employees to throw passenger trains from railway tracks, incendiaries to burn northern cities, pirates to destroy commerce, to fire merchant vessels, and to slaughter their crews. He has stolen the money belonging to others, and deposited it abroad to his own credit. He has plotted offenses against society which have no parallels in brutality and outlawry in the annals of civilization. And now he is branded as one of the infernal cabal whose intrigues, carried on for more than eight months, have resulted in the murder of Abraham Lincoln."

This same journal described the ex-Confederate soldiers in Maryland as "defiant and pompous," and stated that they strutted around like conquerors. All sorts of accusa-

tions were made by this paper against southerners, even charging them with an attempt to introduce yellow fever infection from Bermuda into the northern cities. On May 9 a leading editorial said:

"To the more conspicuous leaders of the rebellion, civil and military, should be awarded the extreme penalty of the law. Nothing short of expiation on the gallows would satisfy the simplest demands of justice. As to the masses of the people who have been so terribly duped by these miscreants, we think there can be but one feeling, that they have already been subjected to such untold losses and sufferings and humiliations that they are fairly entitled to executive clemency."

On April 24, 1865, the first branch of the city council of Baltimore passed resolutions requesting General Wallace to close certain "disloyal churches," and thus to "save our city from this degradation and shame by removing these cesspools, the miasma arising from which taints the moral atmosphere with treason." Further resolutions passed the same day by a unanimous vote protested against allowing "rebels" to return to the city.

On April 25 a meeting of citizens of Cumberland, Md., was held in the markethouse, and presided over by the mayor, Dr. C. H. Ohr. It was then resolved that "those persons who voluntarily left their homes in this county (Allegany) and have taken up arms against the Federal Government, or otherwise aided the rebellion, shall not be permitted to return again amongst us." It was threatened that such as returned would be "summarily dealt with," and a vigilance committee of 25 members was appointed, with power to add to this number.

In general, the Union people were not so bitter against Confederates from other States as against those from Maryland. Perhaps the fact that the latter might become voters under a new regime added to the feelings of hostility. Finally, their contention was that "rebels should acknowledge they were wrong, if they want to be forgiven."

Very different was the attitude of the Baltimore Sun, the leading Democratic newspaper in the State, and with good reason, for it had escaped suppression during the 4 years of war only by a discreet handling of the news, and by refraining from editorials for the most part, except on such truly nonpartisan occasions as Christmas and New Year's Day. The Sun now began to pluck up courage as the use of the military power lessened, and on May 23 it stated that "such of our citizens and youth as had strayed away and made common cause with the South in rebellion, are now returning, and realizing the advantages of the terms of surrender, (are) generally willingly renewing their allegiance. No where now are Southern men more generously met than in Baltimore."

Later on, it heartily entered into the movement to raise money to aid southern sufferers from the war, particularly those in the Shenandoah Valley.

As time went on, and the feelings caused by the first flush of victory passed away, milder counsels began to prevail among the Union people. The City Council of Baltimore took care to state that their anti-rebel resolutions, lately adopted, did not refer to southern merchants coming to the city for purposes of trade, but only to the return of those who formerly had a residence among us, but who went south to aid in the overthrow of the Government. It was thought best they be not permitted to return amongst us until they came as prodigals, seeking, not claiming a home, confessing their errors and asking to be received as repentant sons. Also the American stated on June 20, 1865, that it was anxious to let the southern sympathizers alone, that it would do so if they kept their proper positions and showed some indications of humanity and contrition, and also disavowed any feelings of bigotry or vindictiveness. Most unfortunately, many of the leaders in the Union party, as we shall see, found it to be to their personal advantage to keep alive the controversies and hatreds of the past, for by this means they hoped to overcome all opposition both within and without the party. This caused the crisis in political affairs which came in the year 1866 (27 John Hopkins Studies, p. 12).

The State election in the autumn of 1865 was not of great importance, only local officers being voted upon, except in Baltimore City, where several members of the legislature were to be chosen, and in the Second Congressional District where a successor was to be elected to fill the place of Edwin H. Webster, who had been appointed collector of the port of Baltimore.

The first vague whisperings of a new question could now be heard, a question which, along with the registry law, was to cause the shipwreck of the Union party. This was Negro suffrage. It is a fact that by the constitution of 1776 the suffrage had been given to all freemen of age in Maryland who held a certain amount of property, and some free Negroes voted in the few years following. An amendment to the State constitution, adopted in 1810, limited the right of suffrage to the white citizens, and under the influence of the "black code" and the events of the war the people of both parties by 1865 had come to look with great aversion upon Negro participation in politics. Consequently, when Negro suffrage was adopted as a party measure by the national Republican leaders, many of the most conservative Union men in Maryland went over to the Democratic Party.

According to the terms of the registry law as passed by the legislature (this was the first registry law ever passed by the State of Maryland), three registers were to be appointed in each election district of the State. Governor Bradford seems to have had difficulty in performing his part of the duty, as many of his appointees resigned, and an effort had to be made to induce others to sink private differences and act for the public good. However, this being accomplished, the question arose as to what means should be taken in order to determine the right to vote of people of doubtful loyalty, who had nevertheless taken the prescribed "iron clad" oath of allegiance.

For the purpose of comparing their views as to the true interpretation of the law, and of adopting a system of registration uniform throughout the State with respect to matters confided to their discretion and judgment, a State convention of the officers of registration met on August 2, 1865. A list of 25 questions to be asked intending voters was adopted which formed such a strict catechism of political faith and activity that a Democrat who was once tainted with a breath of disloyalty would have difficulty in ever convincing his partisan judges of his character for loyalty. The most searching of these questions were as follows:

"II. Do you consider the oath just taken as legally and morally binding as if administered by a judge of the court or a justice of the peace?

"IX. Have you ever at any time been in armed hostility to the United States or the lawful authorities thereof?

"X. Have you ever been in any manner in the service of the so-called confederate States of America?

"XII. Have you ever given any aid, countenance or support to those engaged in armed hostility to the United States or (to) the so-called Confederate States of America?

"XIII. Have you ever in any manner adhered to the enemies of the United States or the so-called Confederate States or armies?

"XIV. Have you ever contributed money, goods, provisions, labor or any such thing, to procure food, clothing, implements of war or any such thing for the enemies of the United States or the so-called Confederate States or armies?

"XV. Have you ever unlawfully sent within the lines of such enemies money, goods, letters or information?

"XVI. Have you ever in any manner disloyally held communication with the enemies of the United States or the so-called Confederate States or armies?

"XVII. Have you ever advised any person to enter the service of the enemies of the United States, or the so-called Confederate States or armies?

"XVIII. Have you ever, by any open word or deed, declared your adhesion to the cause of the enemies of the United States, or the so-called Confederate States or armies?

"XIX. Have you ever declared your desire for the triumph of said enemies over the armies of the United States?

"XX. Have you ever been convicted of giving or receiving bribes in elections, or of voting illegally, or of using force, fraud or violence to procure yourself or any one else nomination for an office?

"XXI. Have you ever deserted the military service of the United States and not returned to the same or reported yourself to the proper authorities within the time prescribed by proclamations?

"XXII. Have you ever on any occasion expressed sympathy for the Government of the United States during the rebellion?

"XXIII. During the rebellion, when the armies were engaged in battle, did you wish the success of the armies of the United States or those of the rebels?

"XXIV. Have you voted at all the elections held since the year 1861, and if not, give your reasons?

"XXV. Have you, in taking this oath or in answering any questions propounded to you, held any mental reservation or used any evasion whatever?"

It was decided that the names of all white male persons resident in, or temporarily absent from, their district should be placed on the registration books, so that the status of all those not making application should be permanently fixed as disqualified voters. Of course, this would disfranchise them irretrievably, unless they should make application to the legislature for a pardon by a two-thirds vote of that body, or enter the military or naval service of the United States.

The result was, that not only were the ex-Confederates and southern sympathizers prohibited from registering, but many other citizens of the State made no attempt whatever to do so, and an exceedingly small number, in proportion to the population, were designated as qualified voters. In the writer's opinion, at least one-half of the voters were disfranchised, and of these an overwhelming proportion was Democratic. (Says Mr. Knott: "The officers of registration were swayed by a spirit of bitter and uncompromising partisanship and * * * the Republican Party was determined to perpetuate its ascendancy by the entire disfranchisement, if necessary, of its Democratic opponents." Nelson's Baltimore, 555. The writer would add that Mr. Knott is so partisan in his opinions that he is apt to exaggerate to the detriment of those who disagreed with him.)

It seems certain that a part of this number was rightly disfranchised. It was, in fact, neither right nor expedient that those who had been in arms against, or in active opposition to, the U.S. Government should have the ballot given them for some years to come, the length of time to be determined by the actions of the ex-Confederates, who should have opportunity to show their acceptance of the new situation. The radicals in the Union Party of Maryland had, therefore, a large measure of justice on

their side. It was rather the extremely sweeping character of the methods used, and their efforts, at times, to maintain party supremacy by unjust means, that should be condemned.

The first serious move against the registry law was made in the summer and autumn of 1865 under Democratic auspices. Naturally and reasonably, legal means were used in order to test the constitutionality of the act, before a definite political agitation was worked up against it. Two important cases before the State court of appeals decided the constitutionality of the law. The first was that of *Hardesty* v. *Taft* (23 Maryland Reports, 512). Many voters, unable to give a satisfactory answer to the list of questions decided upon by the convention of the officers of registration, were refused enrollment. Therefore, to test this action, an injunction was prayed that the registers should not hand over, nor the judges of elections receive, the registration books, but that the election might be conducted according to the law in force up to this time.

It was insisted by the appellants that the new law was unconstitutional, since it gave judicial powers to the officers of registration, and that the provision of the constitution excluding from voting those citizens who could not take the required oath was void, as enacting an ex post facto law, and hence contrary to the Constitution of the United States. It was illegal for the officers of registration to inquire into acts done prior to the adoption of the new constitution, and they had no right to put questions which tended to incriminate voters, nor to exclude them from registration in case they should not answer such questions.

On the eve of the fall election the court decided that it would not grant an injunction to the effect that the election might be held in a manner different from that designed by law. The court held further, that it had no power to give authority to the judges of election to receive the ballot of a person not on the roll of qualified voters—a ballot not only not conferred, but expressly taken away by the general assembly. The decision distinctly stated that a court of equity could not be invoked to prevent the performance of political duties such as those of an officer of registration, but that if a citizen should be willfully, fraudulently, or corruptly refused a vote by the register, or election judge, he might sue for damages at law.

The second case was that of *Anderson* v. *Baker* (23 Maryland Reports, 531), in which a mandamus was asked to compel a register to place the name of a voter on the lists. The appellant claimed that the provisions of the constitution and of the registry law were void because unconstitutional and contrary to the fundamental principles of justice and reason and of American republican government. A mandamus was the proper remedy, since a suit for damages would not give a wronged person his vote.

On November 2, 1865, the opinion of the court was delivered by Justice Bowie, Justices Cochran, Goldsborough and Weisel assenting, and Justice Bartol dissenting. It was as follows: The right of suffrage, being the creature of the organic law, may be modified or withdrawn by the sovereign authority without inflicting any punishment on those who are disqualified. The power of the registers was a police or political power, and hence constitutional.

In commenting on this decision, the Sun on November 3, 1865, said that it looked upon the question as a political rather than a legal one; hence it did not expect any redress from the courts. It was rather an opportunity to appeal to the sense of public justice and political right of the people. From now on the Democratic Party adopted this latter method, backed up by a judicious amount of shrewd political tactics, with the usual accompaniment of trickery and wire pulling then common to both parties. Meantime, however, neither party had waited to see the results of the legal contest, but both had made nomination, and considering the comparative insignificance of most of the offices at stake, the campaign was fairly active and interesting.

The "unconditional Union city convention," which met in Temperance Temple, Baltimore, on July 13, adopted resolutions by a majority of about 3 to 1, endorsing Andrew Johnson and his policy.

A meeting of about 1,500 citizens of Howard County who were in favor of supporting the Reconstruction policy of the President was held at Clarksville on August 26. Addresses were made by Montgomery Blair, who attacked Secretary Stanton and the Maryland registry law, and by W. H. Purnell. A letter was read from Governor Swann, who regretted his inability to be present, and praised President Johnson.

The Union convention of the second congressional district met at Broadway Hall, East Baltimore, on September 26, and unanimously nominated John L. Thomas, Jr., to succeed E. H. Webster.

The proceedings of the county conventions of the same party are significant, as foreshadowing the varied counsels and final disagreement of the next year. Most of them passed resolutions endorsing Johnson and opposing Negro suffrage. Washington County also endorsed the registry law, and Dorchester County declared in favor of a moderate amendment of the same. The radical Union organ, the Baltimore American, strongly supported the President, took a conservative attitude toward Negro suffrage, and was heartily in favor of sustaining the registry law as placed upon the statute books. On September 30 it commented on the campaign as follows:

"Party spirit is running high, and the party that (formerly) denounced the President without stint is running a tilt with the party which sustained him, for his exclusive possession."

That this comment was true is shown by the fact that the county Democratic conventions generally endorsed Johnson and his Reconstruction policy, while they condemned the registry law and Negro suffrage.

The Democratic State central committee on September 2 published in the Baltimore Sun an address to the people of Maryland, calling upon the latter to rise up and oppose the registry law, which it condemned for being in "marked contrast and hostility to the wise and just policy of conciliation which distinguishes the dealings of President Johnson with the Southern States." It was signed by Oden Bowie, chairman, and A. Leo Knott, secretary. It is significant that practically all these expressions of Democratic opinion were given after July 19, the date of the interview with President Johnson at the White House in Washington.

In a thoughtful and able editorial of July 11 the Sun had already foreshadowed the position and policy of the Democrats and the conservative wing of the Union Party as follows:

"It may reasonably be supposed that the framers of the constitution and those who legislated to carry out its provisions were influenced more or less by the then existing state of the country, torn and distracted as it was by civil war [but] the motives and purposes which actuated our legislators may now be presumed no longer to possess the same force. The general assembly may perhaps, therefore, be brought to consider at an early day [the modification or removal of] the constitutional and legal disabilities which affect a considerable portion of [the] citizens. The provision of the constitution which empowers the general assembly by a vote of two-thirds of the members of both houses to restore any person to his full rights of citizenship may, we presume, be made applicable to all persons disqualified, or to separate classes of such, by the passage of a general law."

The same journal, in its issue for August 31, said that should the Republican Party adopt Negro suffrage, it would throw President Johnson upon the support of the Democratic Party, with which he was identified for so long, but that it hoped that such a mischievous policy would not be undertaken.

Some question arose in the State as to the effect of the President's amnesty proclamation upon the working of the Maryland registry law. Governor Bradford seems to have set this matter at rest by an open letter to E. L. Parker, one of the officers of registration in Baltimore County, dated July 20, 1865, written as an individual citizen, but concurred in by Alexander Randall, State attorney general. In it he emphatically affirmed that neither the pardon by President Johnson nor even an act of Congress could make those who had participated in the recent rebellion voters of Maryland against the State constitution. (American, July 24; Sun, July 25, 1865. The former journal in an editorial of September 16, 1865, notes a difference of opinion between Andrew Johnson and Thaddeus Stevens in regard to southern reconstruction. This is, in point of time, the first mention of the matter that the writer could find in the Maryland papers of the period.)

The committee appointed by Governor Bradford to register all Maryland soldiers entitled to vote went to hospitals at Washington, Alexandria, and Fortress Monroe, and to others in Virginia from Fredericksburg to Richmond. They registered altogether 295 soldiers.

The election was held on November 7, 1865, and the Union Party was generally successful, getting a stronger hold on the legislature and sending J. L. Thomas, Jr., to Congress. In many places the election was almost a farce, particularly in Baltimore City, where only 10,842 citizens were registered, and of these 5,338 did not vote. In the seven lower wards Thomas received 2,040 votes, and William Kimmel, his Democratic opponent, 54.

As might have been expected from such a grant of absolute power to election officials, many illegal and even criminal acts were perpetrated both in registering the voters and in receiving the ballots. A few illustrations will suffice.

In Caroline County the officers of registration sat behind closed doors, admitted voters to register one at a time, and would not inform the individual whether they had registered his name or not. The testimony in contested election cases before the legislature during the ensuing special session shows that the judges of election in the 5th, 8th, 10th, and 15th election districts of Somerset County illegally received, counted and returned in their certificates, a large number of illegal votes. The testimony offers most conclusive and painful evidence of flagrantly vicious conduct, and a reckless disregard of the law, on the part of the judges of election.

It is charged in another instance that one of the judges of election made an improper offer to register a voter if he would vote the Republican ticket, and others they repeatedly refused to register upon the ground that they belonged to the opposite party. Voters are frequently disfranchised without the assignment of any reason (and) almost every form of error is displayed throughout the lists.

Other examples of gross wrong and injustice will appear in the course of the narrative.

"The end of the year 1865 saw the passing away of what might be called the typical conditions of Civil War times. Almost coincident with the new year began the self-reconstruction of Maryland. In the ensuing period the registration act was finally repealed and the defeated Union Party split up into two factions. The radical wing became the Republican Party in the State, and the conservatives joined the triumphant Democrats, in whose hands lay the destinies of Maryland for many years" (27 Hopkins, pp. 30 through 39).

The arguments pro and con continued with increased heat. Editorials and speeches gushed as from a fountain. Mass meetings were held. The issue became involved in the national race of Andrew Johnson. The law caused riot and even threatened insurrection at the 1866 election.

On the preceding Friday, November 2, President Johnson issued the following order addressed to Edwin M. Stanton, Secretary of War:

"There is ground to apprehend danger of an insurrection in Baltimore against the constituted authorities of the State of Maryland, on or about the day of the election soon to be held in that city, and that in such contingency the aid of the United States might be invoked under the acts of Congress which pertain to that subject. While I am averse to any military demonstration that would have a tendency to interfere with the full exercise of the elective franchise in Baltimore, or be construed into any interference in local questions, I feel great solicitude that, should an insurrection take place, the Government should be prepared to meet and promptly put it down. I accordingly desire you to call General Grant's attention to the subject, leaving to his own discretion and judgment the measures of preparation and precaution that should be adopted" (27 Hopkins, p. 73).

In 1867 at the general assembly:

No time was lost in getting to work, and a series of measures followed which aimed to complete the political transformation of the State. The most important act restored to full citizenship and the right to vote and hold office all persons deprived thereof by the fourth section of article I of the constitution of 1864. This same section had provided that any disqualified person might be restored to full rights of citizenship by an act of the general assembly passed by a vote of two-thirds of the members elected to each house, and in accordance with this a general bill applying to all the disfranchised citizens was passed by the house of delegates, after futile opposition on the part of the minority, by a vote of 59 to 19. The Senate passed the same bill by the vote of 16 to 7. The minority here attempted to amend the act by excepting from its provisions all those who had been members of the Confederate army or navy, but were defeated by the same vote. This bill secured to the political outcasts the vote which had hitherto been theirs only by the grace of Thomas Swann and his election officials. (The vote on these resolutions was, house, yeas 47, nays 17; senate, yeas 13, nays 4.) (27 Hopkins, p. 83.)

A new registration law which required that the election officials and voters should take either the oath prescribed in the constitution of 1864 or a simple oath of allegiance, in conformity with the recent act restoring to full citizenship and right to hold office those deprived thereof by the constitutional provisions. It further required that the judges of election must register all persons qualified to vote, and duly receive and count all votes of such persons registered, and in addition these officials were given the powers of justices of the peace and of sheriffs, that they might issue summons to witnesses. Finally, it required that the judges of election take the vote of the Maryland soldiers and sailors in the national service. (27 John Hopkins, supra, p. 84.)

On the basis of these provisions, the constitutional convention adopted changes, although the radical party members did everything they could to prevent the holding of the convention. However, the convention was held, May 8, 1867, at Annapolis.

And now as to the actual results of the work of the convention. The declaration of rights as finally adopted omitted article I of the constitution of 1864, which related to certain inalienable rights of the people, such as that of reform, and article III was inserted, which declared that the powers not delegated to the United States by the Constitution thereof, nor prohibited by it to the States, are reserved to the States respectively or to the people thereof.

Article VII gave the suffrage to every white male citizen of age, and article XV continued the prohibition of a poll-tax. (There was an ineffectual effort to strike out this article, on the ground that it dealt with a matter more properly subject to the decision of the legislature, and that every one should contribute to the expenses of government.)

Article XXIV substituted for the provision of 1864, which abolished slavery, the following:

"That slavery shall not be reestablished in this State, but having been abolished, under the policy and authority of the United States, compensation, in consideration thereof, is due from the United States."

It appears that there was some debate in the convention on May 28 concerning the advisability of inserting in the constitution this clause prohibiting slavery, for some members wished that it be omitted. However, others insisted upon its retention, in view of the effect on the public mind—abolition being an accomplished fact—and it was finally inserted upon this ground.

Article XXVII copied the constitution of 1851, which provided "that no conviction shall work corruption of blood or forfeiture of estate," but omitted the clause inserted in 1864 which contained the words "for any crime, except treason, and then only on conviction." Finally, the following was inserted as article XLIV:

"That the provisions of the Constitution of the United States and of this State, apply, as well in time of war, as in time of peace; and any departure therefrom, or violation thereof, under the plea of necessity, or any other plea, is subversive of good government, and tends to anarchy and despotism."

This was a direct condemnation of the war policy of President Lincoln.

As in previous constitutions, article I dealt with the elective franchise. The convention entirely omitted the retrospective test oaths of 1864, providing merely an oath of office binding a person to the support of the Constitution of the United States and the constitution and laws of the State of Maryland, and to the faithful discharge of the duties of an official. Section 5 provided for a uniform registration of the voters of the State, and made it conclusive evidence of the right to vote (27 Hopkins, supra, p. 118).

South Carolina in 1776 framed her first constitution by a provincial congress. Here they said:

The qualifications of electors shall be the same as required by law, but persons having property, which, according to the rate of the last preceding tax, is taxable at the sums mentioned in the election act, shall be entitled to vote, though it was not actually taxed, having the other qualifications mentioned in that act; electors shall take an oath of qualification, if required by the returning officer. The qualification of the elected to be the same as mentioned in the election act, and construed to mean clear of debt (6 Thorpe, supra, p. 3245).

The constitution of 1778 provides—

The qualification of electors shall be that every free white man, and no other person, who acknowledges the being of a God, and believes in a future state of rewards and punishments, and who has attained the age of 1 and 20 years, and hath been a resident and an inhabitant in this State for the space of 1 whole year before the day appointed for the election he offers to give his vote at, and hath a freehold at least of 50 acres of land, or a town lot, and hath been legally seized and possessed of the same at least 6 months previous to such election, or hath paid a tax the preceding year, or was taxable the present year, at least 6 months previous to the said election, in a sum equal to the tax on 50 acres of land, to the support of this government, shall be deemed a person qualified to vote for, and shall be capable of electing, a representative or representatives to serve as a member or members in the senate and house of representatives, for the parish or district where he actually is a resident, or in any other parish or district in this State where he hath the like freehold. Electors shall take an oath or affirmation of qualification, if required by the returning officer (6 Thorpe, supra, p. 3251).

In 1790 there was another constitution framed:

Every free white man, of the age of 21 years, being a citizen of this State, and having resided therein 2 years previous to the day of election, and who hath a freehold of 50 acres of land or a town lot, of which he hath been legally seized and possessed at least 6 months before such election, or, not having such freehold or town lot, hath been a resident in the election district in which he offers to give his vote 6 months before the said election, and hath paid a tax the preceding year 3 shillings sterling toward the support of this government, shall have a right to vote for a member or members to serve in either branch of the legislature for the election district in which he holds such property or is so resident (6 Thorpe, supra, p. 3258).

In 1810 this was amended to read:

That the fourth section of the first article of the constitution of this State be altered and amended to read as follows: "Every free white man of the age of 21 years, paupers, and noncommissioned officers, and private soldiers of the Army of the United States excepted, being a citizen of this State, and having resided therein 2 years previous to the day of election, and who hath a freehold of 50 acres of land or a town lot, of which he hath been legally seized and possessed at least 6 months before such election, or not having such freehold or town lot, hath been a resident in the election district in which he offers to give his vote 6 months before the said election, shall have a right to vote for a member or members to serve in either branch of the legislature, for the election district in which he holds such property, or is so resident (6 Thorpe, p. 3267).

Immediately after the Civil War, in 1865, a new constitution appeared:

In all elections to be made by the people of this State, or of any part thereof, for civil or political offices, every person shall be entitled to vote who has the following qualifications, to wit: He shall be a free white man who has attained the age of 21 years, and is not a pauper, nor a noncommissioned officer, or private soldier of the Army, nor a seaman or marine of the Navy of the United

States. He shall, for the 2 years next preceding the day of election, have been a citizen of this State, or, for the same period, an emigrant from Europe, who has declared his intention to become a citizen of the United States, according to the Constitution and laws of the United States. He shall have resided in this State for at least 2 years next preceding the day of election, and for the last 6 months of that time in the district in which he offers to vote: *Provided, however,* That the general assembly may, by requiring a registry of voters, or other suitable legislation, guard against frauds in elections and usurpations of the right of suffrage, may impose disqualification to vote as a punishment for crime, and may prescribe additional qualifications for voters in municipal elections (6 Thorpe, supra, p. 3276, art. IV).

In 1868 another constitution came into being:

SEC. 31. All elections shall be free and open, and every inhabitant of this commonwealth possessing the qualifications provided for in this constitution shall have an equal right to elect officers and be elected to fill public office.

SEC. 33. The right of suffrage shall be protected by laws regulating elections, and prohibiting, under adequate penalties, all undue influences from power, bribery, tumult, or improper conduct (6 Thorpe, p. 3284).

ARTICLE VIII

SECTION 1. In all elections by the people the electors shall vote by ballot.

SEC. 2. Every male citizen of the United States, of the age of 21 years and upward, not laboring under the disability named in this constitution, without distinction of race, color, or former condition, who shall be a resident of this State at the time of the adoption of this constitution, or who shall thereafter reside in this State 1 year, and in the county in which he offers to vote 60 days next preceding any election, shall be entitled to vote for all officers that are now, or hereafter may be, elected by the people, and upon all questions submitted to the electors at any elections: *Provided,* That no person shall be allowed to vote or hold office who is now or hereafter may be disqualified therefor by the Constitution of the United States, until such disqualification shall be removed by the Congress of the United States: *Provided further,* That no person, while kept in any almshouse or asylum, or of unsound mind, or confined in any public prison, shall be allowed to vote or hold office.

SEC. 3. It shall be the duty of the general assembly to provide from time to time for the registration of all electors.

SEC. 4. For the purpose of voting, no person shall be deemed to have lost his residence by reason of absence while employed in the service of the United States, nor while engaged upon the waters of this State or the United States, or of the high seas, nor while temporarily absent from the State.

SEC. 5. No soldier, seaman, or marine in the Army or Navy of the United States shall be deemed a resident of this State in consequence of having been stationed therein.

SEC. 6. Electors shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest and civil process during their attendance at elections, and in going to and returning from the same (6 Thorpe, supra, p. 3297).

In this constitution we see the absence of the former color line—due to the 15th amendment—and also no requirement of residence or property holding.

In 1895 a convention ratified still another constitution for South Carolina. Its declaration of rights provided, in article I:

SEC. 9. The right of suffrage, as regulated in this constitution, shall be protected by law regulating elections and prohibiting, under adequate penalties, all undue influences from power, bribery, tumult, or improper conduct (6 Thorpe, supra, p. 3307).

SEC. 10. All elections shall be free and open, and every inhabitant of this State possessing the qualificationss provided for in this constitution shall have an equal right to elect officers and be elected to fill public office.

SEC. 11. No property qualification, unless prescribed in this constitution, shall be necessary for an election to or the holding of any office. No person shall be elected or appointed to officer in this State for life or during good behavior, but the terms of all officers shall be for some specified period, except notaries public and officers in the militia. After the adoption of this constitution any person who shall fight a duel or send or accept a challenge for that purpose, or be an aider or abettor in fighting a duel, shall be deprived of holding any office of honor or trust in this State, and shall be otherwise punished as the law shall prescribe (6 Thorpe, supra, p. 3308).

ARTICLE II

SECTION 1. All elections by the people shall be by ballot, and elections shall never be held or the ballots counted in secret.

SEC. 2. Every qualified elector shall be eligible to any office to be voted for, unless disqualified by age, as prescribed in this constitution. But no person shall hold two offices of honor or profit at the same time: *Provided,* That any person holding another office may at the same time be an officer in the militia or a notary public.

SEC. 3. Every male citizen of this State and of the United States 21 years of age and upwards, not laboring under the disabilities named in this constitution and possessing the qualifications required by it, shall be an elector.

SEC. 4. The qualifications for suffrage shall be as follows:

(a) Residence in the State for 2 years, in the county 1 year, in the polling precinct in which the elector offers to vote 4 months, and the payment 6 months before any election of any poll tax then due and payable: *Provided,* That ministers in charge of an organized church and teachers of public schools shall be entitled to vote after 6 months' residence in the State, otherwise qualified.

(b) Registration, which shall provide for the enrollment of every elector once in 10 years, and also an enrollment during each and every year of every elector not previously registered under the provisions of this article.

(c) Up to January 1, 1898, all male persons of voting age applying for registration who can read any section in this constitution submitted to them by the registration officer, or understand and explain it when read to them by the registration officer, shall be entitled to register and become electors. A separate record of all persons registered before January 1, 1898, sworn to by the registration officer, shall be filed, one copy with the clerk of court and one in the office of the secretary of state, on or before February 1, 1898, and such persons shall remain during life qualified electors unless disqualified by the other provisions of this article. The certificate of the clerk of court or secretary of state shall be sufficient evidence to establish the right of said citizens to any subsequent registration and the franchise under the limitations herein imposed.

(d) Any person who shall apply for registration after January 1, 1898, if otherwise qualified, shall be registered: *Provided,* That he can both read and write any section of this constitution submitted to him by the registration officer or can show that he owns, and has paid all taxes collectible during the previous year on property in this State assessed at $300 or more.

(e) Managers of election shall require of every elector offering to vote at any election, before allowing him to vote, proof of the payment of all taxes, including poll tax, assessed against him and collectible during the previous year. The production of a certificate or of the receipt of the officer authorized to collect such taxes shall be conclusive proof of the payment thereof.

(f) The general assembly shall provide for issuing to each duly registered elector a certificate of registration, and shall provide for the renewal of such certificate when lost, mutilated or destroyed, if the applicant is still a qualified elector under the provisions of this constitution, or if he has been registered as provided in subsection (c).

SEC. 5. Any person denied registration shall have the right to appeal to the court of common pleas, or any judge thereof, and thence to the supreme court, to determine his right to vote under the limitations imposed in this article, and on such appeal the hearing shall be de novo, and the general assembly shall provide by law for such appeal, and for the correction of illegal and fraudulent registration, voting, and all other crimes against the election laws.

SEC. 6. The following persons are disqualified from being registered or voting:

"First. Persons convicted of burglary, arson, obtaining goods or money under false pretenses, perjury, forgery, robbery, bribery, adultery, bigamy, wifebeating, housebreaking, receiving stolen goods, breach of trust with fraudulent intent, fornication, sodomy, incest, assault with intent to ravish, miscegenation, larceny, or crimes against the election laws: *Provided,* That the pardon of the Governor shall remove such disqualification.

"Second. Persons who are idiots, insane, paupers supported at the public expense, and persons confined in any public prison." (Quote 6 Thorpe supra p. 3309–3311, first six sections of article II.)

SEC. 7. Residence gained or lost: For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this State, or of the United States, or of the high seas, nor while a student of any institution of learning.

SEC. 8. Registration provided: elections; board of registration; books of registration: The general assembly shall provide by law for the registration of all qualified electors, and shall prescribe the manner of holding elections and of ascertaining the results of the same: *Provided,* At the first registration under this constitution, and until the 1st of January 1898, the registration shall be conducted by a board of three discreet persons in each county, to be appointed by the Governor, by and with the advice and consent of the senate. For the first registration to be provided for under this constitution, the registration books shall be kept open for at least 6 consecutive weeks; and thereafter from time to time at least 1 week in each month, up to 30 days next preceding the first election to be held under this constitution. The registration books shall be public records open to the inspection of any citizen at all times.

SEC. 14. Electors shall in all cases except treason, felony, or a breach of the peace, be privileged from arrest on the days of election during their attendance at the polls, and going to and returning therefrom.

SEC. 15. No power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage in this State (6 Thorpe, supra, p. 3312).

In 1931 South Carolina amended section 2 of article II to render circuit judges eligible to appointment as acting associate justices of the South Carolina Supreme Court.

Every qualified elector shall be eligible to any office to be voted for, unless disqualified by age, as prescribed in this constitution. But no person shall hold two offices of honor or profit at the same time: *Provided,* That any person holding another office may at the same time be an officer in the militia or a notary public: *Provided, further,* That the limitation above set forth "But no person shall hold two offices of honor or profit at the same time" shall not apply to the circuit judges of the State under the circumstances hereinafter stated, but that whenever it shall appear that any or all of the justices of the supreme court shall be disqualified or be otherwise prevented from presiding in any cause, or causes, for the reasons set forth in section 6 of article V of the constitution, the chief justice or in his stead the senior associate justice shall when available designate the requisite number of circuit judges for the hearing and determination thereof.

In 1951, a joint resolution was proposed to amend section 2 of article II, to permit an elective officeholder to serve as a delegate to constitutional conventions. This amendment was ratified in 1953:

SEC. 2. Every qualified elector shall be eligible to any office to be voted for, unless disqualified by age, as prescribed in this constitution. But no person shall hold two offices of honor or profit at the same time: *Provided,* That any person holding another office may at the same time be an officer in the militia or a notary public: *Provided, further,* That the limitation above set forth "But no person shall hold two offices of honor or profit at the same time" shall not apply to the circuit judges of the State under the circumstances hereinafter stated, but that whenever it shall appear that any or all of the justices of the supreme court shall be disqualified or be otherwise prevented from presiding in any cause, or causes, for the reason set forth in section 6 of article V of the constitution, the chief justice or in his stead the senior associate justice shall when available designate the requisite number of circuit judges for the hearing and determination thereof: *Provided,* The limitation above set forth shall not prohibit any officeholder from being a delegate to a constitutional convention.

Sections 4(a) and 4(e) of article II were amended in 1931 to eliminate the requirement that all taxes be paid before an elector could vote, and required only that poll taxes be paid prior to voting:

(a) Residence in the State for 2 years, in the county 1 year, in the polling precinct in which the elector offers to vote 4 months: *Provided,* That ministers in charge of an organized church and teachers of public schools shall be entitled to vote after 6 months' residence in the State, otherwise qualified.

(e) Managers of election shall require of every elector offering to vote at any election, before allowing him to vote, proof of the payment 30 days before any election of any poll tax then due and payable. The production of a certificate or of the receipt of the officer authorized to collect such taxes shall be conclusive proof of the payment thereof.

The poll tax requirement was abolished in 1951, when section 4(e) was stricken from the constitution.

Chafee briefs it as follows:

Who may vote: Persons who have resided in the State 2 years, the county 1 year, and the precinct 4 months. Elector must have paid all poll taxes due and payable by October 3 or have paid during the previous year taxes on property assessed at $300 or more.

In the period of transition from property requirements:

South Carolina further modified the landholding qualification by laying stress on the payment of taxes. One must have possessed 100 acres of unsettled land on which he paid taxes, or a settled plantation, or he must have owned a townhouse and lot worth 60 pounds on which he paid taxes, or he must have paid taxes amounting to 10 shillings per annum, which would be sufficient in itself. Residence of 1 year in the province was required, and the franchise was limited to Protestants (Porter, "History of Suffrage in the United States," p. 9).

It is interesting to note that there is still a qualified or alternative property requirement. Also the clause "acknowledge the being of a God and belief in a future state of rewards and punishments" is unusual in the constitution of 1778, and was, says Porter, probably an oversight; there is no evidence of its having been enforced, and 10 years later it was repealed.

Porter further says:

Equally of interest is it to observe that South Carolina added to her constitution in 1810 an alternative to the 50 acres or a town lot prescribed as a suffrage qualification in the Revolutionary constitution. The alternative ranks with that of Louisiana for unusualness. It was simply residence in the election district for 6 months, as well as a 2-year residence in the State. Of course this simple alternative to all intents and purposes put a complete end to the property test. Two years was quite a high residence qualification, and that, together with the new 6 months' residence as an alternative to property holding, would indicate that South Carolina had come to look upon permanence and stability as the most desirable factors to secure the good of the State. Voters, according to this provision, must be white males, but nothing is said about citizenship (Porter, "History of Suffrage in the United States," p. 40).

The inclusion of the literacy test and the post-Civil War clause speaking of "race, color, or previous condition of servitude," was discussed at the 1868 Convention:

In January a convention assembled at Charleston, in South Carolina. A campaign was launched at once to prevent the putting of any provision in the suffrage clause that would necessarily involve permanent and arbitrary exclusion on the face of it. It was urged that all disabilities which involved discriminations which men could never overcome of their own action should be abandoned. Such a policy would prevent the disfranchising of Confederates and those mentioned in the Reconstruction acts. Such sentiments as these quickly brought the convention to the consideration of literacy or property tests. The committee reported in favor of applying a reading and writing test in 1875, and debate in convention on the matter of suffrage was largely confined to this proposition.

Indignant opposition appeared at once. It was pointed out that although the committee would postpone the operation of the test for 7 years, it was very unjust to the Negro. It was said that it would take more years than seven to establish a school system throughout the South that would embrace the Negro population. Charleston was the only city in the State having a comprehensive system at that time.

(NOTE.—South Carolina convention, 1868, proceedings, p. 49: One delegate said with much point, "I think it would come with bad grace from any individual in this State, who has helped to deprive men for 2 centuries of the means of education, to demand that in 7 years all unable to read should not be allowed to vote."

In view of the committee's report and the spirited support it received, the final vote on the matter is surprising. The literacy test was snowed under 107 to 2, with 10 not voting.

There was some debate on whether foreigners should be allowed to vote after declaring intention; the need of encouraging immigration was pointed out, but the convention did not support the move.

As the constitution finally stood, it was one of the simplest of all. It enfranchised all male citizens "without distinction of race, color, or former condition." No one was specifically excluded, although an unnecessary phrase declared that none should vote who were excluded by the U.S. Constitution (Porter, supra, pp. 186–187).

Virginia's first charter was in 1606; the second in 1609; the third in 1611–12. Its first constitution was in 1776. Its bill of rights provided:

Elections of members to serve as representatives of the people, in assembly, ought to be free; and that all men, having sufficient evidence of permanent common interest with, and attachment to, the community, have the right of suffrage, and cannot be taxed or deprived of their property for public uses, without their own consent, or that of their representatives so elected, nor bound by any law to which they have not, in like manner, assembled, for the public good (7 Thorpe, p. 3813).

In 1830 the new constitution prefixed this same bill of rights to it. Then they added:

SEC. 14. Every white male citizen of the Commonwealth, resident therein, aged 21 years and upwards, being qualified to exercise the right of suffrage according to the former constitution and laws; and every such citizen being possessed, or those tenant for years, at will, or at sufferance is possessed, of an estate or freehold in land of the value of $25, and so assessed to be if any assessment thereof be required by law; and every such citizen being entitled to a reversion or vested remainder in fee, expectant on an estate for life or lives, in land of the value of $50, and so assessed to be if any assessment thereof be required by law (each and every such citizen unless his title shall have come to him by descent, devise, marriage, or marriage settlement, having been so possessed or entitled for 6 months); and every such citizen who shall own and be himself in actual occupation of a leasehold estate, with the evidence of title recorded 2 months before he shall offer to vote, of a term originally not less than 5 years, of the annual value or rent of $20; and every such citizen who for 12 months next preceding has been a housekeeper and head of a family within the

county, city, town, borough, or election district where he may offer to vote, and shall have been assessed with a part of the revenues of the Commonwealth within the preceding year, and actually paid the same, and no other persons, shall be qualified to vote for members of the general assembly in the county, city, town, or borough, respectively, wherein such land shall lie, or such housekeeper and head of a family shall live. And in case of two or more tenants in common, joint tenants, or parceners in possession, reversion, or remainder, having interest in land, the value whereof shall be insufficient to entitle them all to vote, they shall together have as many votes as the value of the land shall entitle them to; and the legislature shall by law provide the mode in which their vote or votes shall in such case be given: *Provided, nevertheless,* That the right of suffrage shall not be exercised by any person of unsound mind, or who shall be a pauper, or a noncommissioned officer, soldier, seaman, or marine in the service of the United States, or by any person convicted of any infamous offense.

SEC. 15. In all elections in this Commonwealth to an office or place of trust, honor, or profit, the votes shall be given openly, or viva voce, and not by ballot (Thorpe 7, pp. 3825–3826).

In 1850 the bill of rights to the constitution provided:

VI. That all elections ought to be free; and that all men, having sufficient evidence of permanent common interest with, and attachment to, the community, have the right of suffrage, and cannot be taxed or deprived of their property for public uses, without their own consent, or that if their representatives so elected, nor bound by any law to which they have not, in like manner, assented, for the public good (7 Thorpe, p. 3830).

ARTICLE III

SECTION 1. Every white male citizen of the Commonwealth, of the age of 21 years, who has been a resident of the State for 2 years, and of the county, city, or town where he offers to vote for 12 months next preceding an election, and no other person, shall be qualified to vote for members of the general assembly and all officers elective by the people; but no person in the military, naval, or marine service of the United States shall be deemed a resident of this State by reason of being stationed therein. And no person shall have the right to vote who is of unsound mind, or a pauper, or a noncommissioned officer, soldier, seaman, or marine in the service of the United States or who has been convicted of bribery in an election, or of any infamous offense.

SEC. 2. The general assembly, at its first session after the adoption of this constitution, and afterward as occasion may require, shall cause every city or town, the white population of which exceeds 5,000, to be laid off into convenient wards, and a separate place of voting to be established in each; and thereafter no inhabitant of such city or town shall be allowed to vote except in the ward in which he resides.

SEC. 3. No voter during the time for holding any election at which he is entitled to vote shall be compelled to perform military service, except in time of war or public danger; to work upon the public roads, or to attend any court as suitor, juror, or witness; and no voter shall be subject to arrest under any civil process during his attendance at elections, or in going to and returning from them.

SEC. 4. In all elections votes shall be given openly, or viva voce, and not by ballot; but dumb persons entitled to suffrage may vote by ballot (7 Thorpe, *supra,* pp. 3832–3833).

We note here, as is typical of that period, the disappearance of the property requirement.

The constitution of 1864 copied the bill of rights of the constitution of 1830. The provisions of article III:

SECTION 1. Every white male citizen of the Commonwealth, of the age of 21 years, who has been a resident of the State for 1 year, and of the county, city, or town where he offers to vote for 6 months next preceding an election, and who has paid all taxes assessed to him, after the adoption of this constitution, under the laws of the Commonwealth after the reorganization of the county, city, or town where he offers to vote, shall be qualified to vote for members of the general assembly, and all officers elective by the people: *Provided, however,* That no one shall be allowed to vote who, when he offers to vote, shall not thereupon take, or shall not before have taken, the following oath:

"I do solemnly swear (or affirm) that I will support the Constitution of the United States and the laws made in pursuance thereof, as the supreme law of the land, anything in the constitution and laws of the State of Virginia, or in the ordinances of the convention which assembled at Richmond on the 13th day of February 1861, to the contrary notwithstanding; and that I will uphold and defend the government of Virginia as restored by the convention which assembled at Wheeling on the 11th day of June 1861, and that I have not since the 1st day of January 1864 voluntarily given aid or assistance, in any way, to those in rebellion against the Government of the United States for the purpose of promoting the same."

But the legislature shall have power to pass an act or acts prescribing means by which persons who have been disfranchised by this provision shall or may be restored to the rights of voters when in their opinion it will be safe to do so. Any person falsely so swearing shall be subject to the penalties of perjury.

No person shall hold any office under this constitution who shall not have taken and subscribed the oath aforesaid. But no person shall vote or hold office under this constitution who has held office under the so-called Confederate government, or under any rebellious State government, or who has been a member of the so-called Confederate Congress, or a member of any State legislature in rebellion against the authority of the United States, excepting therefrom county officers.

No person in the military, naval, or marine service of the United States shall be deemed a resident of this State by reason of being stationed therein; but citizens of this State, when in the military service of the United States, shall be permitted to vote, under such regulations as may be prescribed by the general assembly, wherever they may be stationed, the same as if they were within their respective cities, counties, or districts. No person shall have the right to vote who is of unsound mind or a pauper, or who has been convicted of bribery in an election, or of any infamous offense.

SEC. 2. The general assembly, as occasion may require, shall cause every city or town, the white population of which exceeds 5,000, to be laid off into convenient wards, and a separate place of voting to be established in each; and thereafter no inhabitants of such city or town shall be allowed to vote except in the ward in which he resides.

SEC. 3. No voter, during the time for holding any election at which he is entitled to vote, shall be compelled to perform military service, except in time of war or public danger, to work upon the public roads, or to attend any court as suitor, juror, or witness; and no voter shall be subject to arrest under any civil process during his attendance at elections, or in going to or returning from them.

SEC. 4. In all elections for members of the general assembly and other State officers, votes shall be given by ballot, and not viva voce, for which the general assembly shall provide by law, at its first session after the adoption of this constitution, but until such provision shall have been made, votes shall be given as heretofore (7 Thorpe, supra, pp. 3854–3856).

Here we see the special oath reaffirming allegiance to the United States as the outgrowth of the Civil War.

Still another constitution in 1870 provided:

SEC. 8. That all elections ought to be free, and that all men, having sufficient evidence of permanent common interest with, and attachment to, the community have the right of suffrage, and cannot be taxed or deprived of their property for public uses without their own consent, or that of their representatives so elected, nor bound by any law to which they have not in like manner assented, for the public good (7 Thorpe, supra, p. 3874).

ARTICLE III

Elective franchise and qualifications for office

SECTION 1. Every male citizen of the United States, 21 years old, who shall have been a resident of this State 12 months, and of the county, city, or town in which he shall offer to vote 3 months next preceding any election, shall be entitled to vote upon all questions submitted to the people at such election: *Provided,* That no officer, soldier, seaman, or marine of the U.S. Army or Navy shall be considered a resident of this State by reason of being stationed therein: *And provided also,* That the following persons shall be excluded from voting:

First. Idiots and lunatics.

Second. Persons convicted of bribery in any election, embezzlement of funds, treason, or felony.

Third. No person who, while a citizen of this State, has, since the adoption of this constitution, fought a duel with a deadly weapon, sent or accepted a challenge to fight a duel with a deadly weapon, either within or beyond the boundaries of this State, or knowingly conveyed a challenge, or aided or assisted in any manner in fighting a duel, shall be allowed to vote or hold any office of honor, profit, or trust under this constitution.

Fourth. Every person who has been a Senator or Representative in Congress, or elector of President or Vice President, or who held any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a Member of Congress or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof.

This clause shall include the following officers: Governor, Lieutenant Governor, secretary of state, auditor of public accounts, second auditor, register of the land office, State treasurer, attorney general, sheriffs, sergeant of a city or town, commissioner of the revenue, county surveyors, constables, overseers of the poor, commissioner of the board of public works, judges of the Supreme Court, judges of the circuit courts, judge of the court of hustings, justices of the county courts, mayor, recorder, alderman, councilmen of a city or town, coroners, escheators, inspectors of tobacco, flour, etc., clerks of the

supreme, district, circuit, and county courts, and of the court of hustings, and attorneys for the Commonwealth: *Provided*, That the legislature may, by a vote of three-fifths of both houses, remove the disabilities incurred by this clause from any person included therein, by a separate vote in each case.

SEC. 2. All elections shall be ballot, and all persons entitled to vote shall be eligible to any office within the gift of the people, except as restricted in this constitution (7 Thorpe, supra, pp. 3875–3876).

In 1902 the constitution was revised and amended. The bill of rights provision on elections was the same. Article II provided:

ELECTIVE FRANCHISE AND QUALIFICATIONS FOR OFFICE

SEC. 18. Every male citizen of the United States, 21 years of age, who has been a resident of the State 2 years, of the county, city, or town 1 year, and of the precinct in which he offers to vote, 30 days, next preceding the election in which he offers to vote, has been registered, and has paid his State poll taxes, as hereinafter required, shall be entitled to vote for members of the general assembly and all officers elective by the people; but removal from one precinct to another, in the same county, city, or town shall not deprive any person of his right to vote in the precinct from which he has moved, until the expiration of 30 days after such removal.

SEC. 19. There shall be general registrations in the counties, cities, and towns of the State during the years 1902 and 1903 at such times and in such manner as may be prescribed by an ordinance of this convention. At such registrations every male citizen of the United States having the qualifications of age, and residence required in section 18 shall be entitled to register, if he be:

First, a person who, prior to the adoption of this constitution, served in time of war in the Army or Navy of the United States, of the Confederate States, or of any State of the United States or of the Confederate States; or

Second, a son of any such person; or

Third, a person, who owns property upon which, for the year next preceding that in which he offers to register, States taxes aggregating at least $1 have been paid; or

Fourth, a person able to read any section of this constitution submitted to him by the officers of registration and to give a reasonable explanation of the same; or, if unable to read such section, able to understand and give a reasonable explanation thereof when read to him by the officers.

A roll containing the names of all persons thus registered, sworn to and certified by the officers of registration, shall be filed, for record and preservation, in the clerk's office of the circuit court of the county, or the clerk's office of the corporation court of the city, as the case may be. Persons thus enrolled shall not be required to register again, unless they shall have ceased to be residents of the State, or become disqualified by section 23. Any person denied registration under this section shall have the right of appeal to the circuit court of his county, or the corporation court of his city, or to the judge thereof in vacation.

SEC. 20. After the 1st day of January 1904, every male citizen of the United States, having the qualifications of age and residence required in section 18, shall be entitled to register, provided:

First, that he has personally paid to the proper officer all State poll taxes assessed or assessable against him, under this or the former constitution, and for the 3 years next preceding that in which he offers to register; or, if he come of age at such time that no poll tax shall have been assessable against him for the year preceding the year in which he offers to register, has paid $1.50, in satisfaction of the first year's poll tax assessable against him; and,

Second, that, unless physically unable, he make application to register in his own handwriting, without aid, suggestion, or memorandum, in the presence of the registration officers, stating therein his name, age, date and place of birth, residence and occupation at the time and for the 2 years next preceding, and whether he has previously voted, and, if so, the State, county, and precinct in which he voted last; and

Third, that he answer on oath any and all questions affecting his qualifications as an elector, submitted to him by the officers of registration, which questions, and his answers thereto, shall be reduced to writing, certified by the said officers, and preserved as a part of their official records.

SEC. 21. Any person registered under either of the last two sections, shall have the right to vote for members of the general assembly and all officers elective by the people, subject to the following conditions:

That he, unless exempted by section 22, shall, as a prerequisite to the right to vote after the 1st day of January 1904, personally pay, at least 6 months prior to the election, all State poll taxes assessed or assessable against him, under this constitution, during the 3 years next preceding that in which he offers to vote: *Provided*, That, if he registered after the 1st day of January 1904, he shall, unless physically unable, prepare and deposit his ballot without aid, on such printed form as the law may prescribe; but any voter registered prior to that date may be aided in the preparation of his ballot by such officer of election as he himself may designate.

SEC. 22. No person who, during the late War Between the States, served in the Army or Navy of the United States, or the Confederate States, or any State of the United States, or of the Confederate States, shall at any time be required to pay a poll tax as a prerequisite to the right to register or vote. The collection of the State poll tax assessed against anyone shall not be enforced by legal process until the same has become 3 years past due.

SEC. 23. The following persons shall be excluded from registering and voting: Idiots, insane persons, and paupers; persons who, prior to the adoption of this Constitution, were disqualified from voting, by conviction of crime, either within or without this State, and whose disabilities shall not have been removed; persons convicted after the adoption of this Constitution, either within or without this State, of treason, or of any felony, bribery, petit larceny, obtaining money or property under false pretences, embezzlement, forgery, or perjury; persons, who, while citizens of this State, after the adoption of this Constitution, have fought a duel with a deadly weapon, or sent or accepted a challenge to fight such duel, either within or without this State, or knowingly conveyed a challenge, or aided or assisted in any way in the fighting of such duel (7 Thorpe, supra, pp. 3906–3908).

SEC. 27. All elections by the people shall be by ballot; all elections by any representative body shall be viva voce, and the vote recorded in the journal thereof.

The ballot box shall be kept in public view during all elections, and shall not be opened, nor the ballots canvassed or counted, in secret.

So far as consistent with the provisions of this Constitution, the absolute secrecy of the ballot shall be maintained.

SEC. 28. The general assembly shall provide for ballots without any distinguishing mark or symbol, for use in all State, county, city, and other elections by the people, and the form thereof shall be the same in all places where any such election is held. All ballots shall contain the names of the candidates, and of the offices to be filled, in clear print and in due and orderly succession; but any voter may erase any name and insert another.

SEC. 29. No voter, during the time of holding any election at which he is entitled to vote, shall be compelled to perform military service, except in time of war or public danger; to attend any court as suitor, juror, or witness; and no voter shall be subject to arrest under any civil process during his attendance at election or in going to or returning therefrom.

SEC. 30. The general assembly may prescribe a property qualification not exceeding $250 for voters in any county or subdivision thereof, or city or town, as a prerequisite for voting in any election for officers, other than the members of the general assembly, to be wholly elected by the voters of such county or subdivision thereof, or city, or town; such action, if taken, to be had upon the initiative of a representative in the general assembly of the county, city or town affected: *Provided*, That the general assembly in its discretion may make such exemptions from the operation of said property qualification as shall not be in conflict with the Constitution of the United States.

SEC. 31. There shall be in each county and city an electoral board, composed of three members, appointed by the circuit court of the county or the corporation court of the city, or the judge of the court in vacation. Of those first appointed one shall be appointed for a term of 1 year, one for a term of 2 years, and one for a term of 3 years; and thereafter their successors shall be appointed for the full term of 3 years. Any vacancy occurring in any board shall be filled by the same authority for the unexpired term.

Each electoral board shall appoint the judges, clerks, and registrars of election for its county or city; and, in appointing judges of election, representation as far as possible shall be given to each of the two political parties which, at the general election next preceding their appointment, cast the highest and next highest number of votes.

No person, nor the deputy of any person, holding any office or post of profit or emolument, under the U.S. Government, or who is in the employment of such Government, or holding any elective office of profit or trust in the State, or in the county, city, or town thereof, shall be appointed a member of the electoral board, or registrar, or judge of election (7 Thorpe, supra, p. 3909).

These elaborate provisions were aimed, of course, at a number of things, including the 15th amendment to the U.S. Constitution.

Today the Bill of Rights provision remains the same. The other provisions have been amended. Some of the requirements have disappeared along with the so-called "grandfather" clause—that is, one which provides that the son of a voter is qualified by the fact of relationship. The judicial decisions doubtless influenced this, which I shall discuss in the section of my argument on cases, which will follow my history of State suffrage laws:

ARTICLE II

Elective franchise and qualifications for office

SEC. 18. Qualifications of voters: Every citizen of the United States, 21 years of age, who has been a resident of the State 1 year, of the county, city, or town, 6 months, and of the precinct in which he offers to vote,

30 days, next preceding the election in which he offers to vote, has been registered, and has paid his State poll taxes, as hereinafter required, shall be entitled to vote for members of the general assembly and all officers elective by the people; but removal from one precinct to another, in the same county, city, or town shall not deprive any person of his right to vote in the precinct from which he has moved, until the expiration of 30 days after such removal.

The right of citizens to vote shall not be denied or abridged on account of sex (as amended June 19, 1928).

SEC. 19. Registration of voters; those registered prior to 1904: Persons registered under the general registration of voters during the years 1902 and 1903, whose names were required to be certified by the officers of registration for filing, record, and preservation in the clerk's offices of the several circuit and corporation courts, shall not be required to register again, unless they have ceased to be residents of the State, or became disqualified by section 23.

SEC. 20. Who may register: Every citizen of the United States, having the qualifications of age and residence required in section 18, shall be entitled to register, provided:

First, that he has personally paid to the proper officer all State poll taxes legally assessed or assessable against him for the 3 years next preceding that in which he offers to register; or, if he come of age at such time that no poll tax shall have been assessable against him for the year preceding the year in which he offers to register, has paid $1.50, in satisfaction of the first year's poll tax assessable against him:

Second, that unless physically unable, he make application to register in his own handwriting, without aid, suggestion, or memorandum, in the presence of the registration officer, stating therein his name, age, date, and place of birth, residence and occupation at the time and for the 1 year next preceding, and whether he has previously voted, and, if so, the State, county, and precinct in which he voted last; and

Third, that he answer on oath any and all questions affecting his qualifications as an elector, submitted to him by the registration officer, which questions, and his answers thereto, shall be reduced to writing, certified by the said officer, and preserved as a part of his official records (as amended June 19, 1928).

SEC. 21. Conditions for voting: A person registered under the general registration of voters during the years 1902 and 1903, or under the last section, shall have the right to vote for all officers elective by the people, subject to the following conditions:

That unless exempted by section 22, he shall, as a prerequisite to the right to vote, personally pay, at least 6 months prior to the election, all State poll taxes assessed or assessable against him, under this Constitution, during the 3 years next preceding that in which he offers to vote.

If he shall have registered after the 1st day of January, 1904, he shall, unless physically unable, prepare and deposit his ballot without aid, on such printed form as the law may prescribe; but any voter registered prior to that date may be aided in the preparation of his ballot by such officer of election as he himself may designate.

SEC. 22. Persons exempt from payment of poll tax as condition of right to vote: No person, nor the wife or widow of such person, who, during the late war between the States, served in the Army or Navy of the United States, or of the Confederate States, or of any State of the United States, or of the Confederate States, shall at any time be required to pay a poll tax as a prerequisite to the right to register or vote. The collection of the State poll tax assessed against anyone shall not be enforced by legal process until the same has become 3 years past due.

SEC. 23. Persons excluded from registering and voting: The following persons shall be excluded from registering and voting: Idiots, insane persons and paupers; persons who, prior to the adoption of this constitution, were disqualified from voting, by conviction of crime, either within or without this State, and whose disabilities shall not have been removed; persons convicted after the adoption of this constitution, either within or without this State, of treason, or of any felony, bribery, petit larceny, obtaining money or property under false pretenses, embezzlement, forgery or perjury; persons who while citizens of this State, after the adoption of this constitution, have fought a duel with a deadly weapon, or sent or accepted a challenge to fight such a duel, either within or without this State, or knowingly conveyed such a challenge, or aided or assisted in any way in the fighting of such duel. ("Constitution of the States and the United States," pp. 1850–1851).

SEC. 24. Who not deemed to have gained legal residence: No officer, soldier, seaman, or marine of the U.S. Army or Navy shall be deemed to have gained a residence as to the right of suffrage, in the State, or in any county, city, or town thereof by reason of being stationed therein; nor shall an inmate of any charitable institution or a student in any institution of learning, be regarded as having either gained or lost a residence, as to the right of suffrage, by reason of his location or sojourn in such institution.

SEC. 25. Directions to general assembly in regard to registration and transfers: The general assembly shall provide for the annual registration of voters under section 20 for an appeal by any person denied registration, for the correction of illegal or fraudulent registration thereunder, and also for the proper transfer of all voters registered under this constitution.

SEC. 26. Persons qualified to vote at next election shall be admitted to registration: Any person who, in respect to age or residence, would be qualified to vote at the next election shall be admitted to registration, notwithstanding that at the time thereof he is not so qualified, and shall be entitled to vote at said election if then qualified under the provisions of this constitution.

SEC. 27. Method of voting: All elections by the people shall be by ballot; all elections by any representative body shall be viva voce, and the vote recorded in the journal thereof.

The ballot box shall be kept in public view during all elections, and shall not be opened, nor the ballots canvassed or counted, in secret.

So far as consistent with the provisions of this constitution, the absolute secrecy of the ballot shall be maintained.

SEC. 29. Privileges of voters during election: No voter, during the time of holding any election at which he is entitled to vote, shall be compelled to perform military service, except in time of war or public danger; to attend any court as suitor, juror, or witness; and no voter shall be subject to arrest under any civil process during his attendance at election or in going to or returning therefrom.

SEC. 30. General assembly may prescribe property qualifications for voting in county, city, or town elections: The general assembly may prescribe a property qualification not exceeding $250 for voters in any county or subdivision thereof, or city or town as a prerequisite for voting in any election for officers, other than the members of the general assembly, to be wholly elected by the voters of such county or subdivision thereof, or, city, or town; such action, if taken, to be had upon the initiative of a representative in the general assembly of the county, city, or town affected: *Provided*, That the general assembly, in its discretion, may make such exemptions from the operation of said property qualifications as shall not be in conflict with the Constitution of the United States ("Constitution of the States and the United States," p. 1582).

SEC. 35. Primary elections; who may vote: No person shall vote at any legalized primary election for the nomination of any candidate for office unless he is at the time registered and qualified to vote at the next succeeding election.

SEC. 36. General assembly shall enact laws to regulate elections: The general assembly shall enact such laws as are necessary and proper for the purpose of securing the regularity and purity of general, local, and primary elections, and preventing and punishing any corrupt practices in connection therewith; and shall have power, in addition to other penalties and punishments now or hereafter prescribed by law for such offenses, to provide that persons convicted of them shall thereafter be disqualified from voting or holding office (Constitution of the States and the United States, p. 1583).

Regarding the property requirements in Virginia in 1829, Porter says:

It is necessary now to pass over a few years and come to the situation at it was in Virginia in 1829. It will be remembered that Virginia labored under a very limited franchise. Great stress was put upon ownership of real estate. This situation in some ways had exerted an unfortunate influence on the development of Virginia. Legislation and official positions were practically confined to landholders. Small landholders and very worthy men who owned no property had avoided Virginia. And just this type of men Virginia needed to develop her resources and keep her in pace with other States. Sturdy, rugged pioneers, men who were ready to seize upon undeveloped land, far from the centers of city life, and make something of it were not the sort of men who were willing to tolerate suffrage restrictions. They were the kind of men who were populating Illinois, Indiana, and Wisconsin, the kind of men who cared very little about government anyhow, who looked upon it as a mere convenience but would not consent to have it autocratic in the slightest degree. Where they were in the majority, as in the Western States, the question of property restrictions never arose. These were the men whom Virginia was driving away from her border. Then, too, there was a steadily growing class of men within the State who paid taxes and yet could not vote. Conservatism was strongly rooted in Virginia and bid fair to hold the reins a few years longer.

In these circumstances a constitutional convention was called in 1829. A majority of the delegates and people at large considered the chief question at issue that of suffrage. But the very first presentation of the question in debate closed the door against any argument on the propriety of some kind of property qualification. A resolution was put before the house providing a freehold qualification, the point left open for debate being the size or value of the freehold to be required. Such men as Madison, Monroe, Marshall, Randolph, and Upshur were there to defend the freehold qualification. At no time was there serious danger of its being lost. So the debate at once centered around fixing the size or value of the freehold.

A rather peculiar situation existed in Virginia. There were very large tracts of land in the western part of the State, but this land was practically valueless. On the other hand, it was thought desirable to allow those pioneers who explored and settled this land to vote, for in many ways they were the finest

type that any State could boast of. And, on the other hand, certain speculators had obtained title to large areas of this land, and if a mere freehold were to be a license to vote they could dispose of it in small tracts and conceivably could work great corruption by turning it over to undesirables.

Here again there were these qualifications written into the State constitution. We note the great care which was taken to prevent fraud from creeping in, to destroy the right to vote.

Hence it was better to prescribe to the freehold a fixed value or a fixed area that should entitle a man to vote. But the problem was complicated because of the more thickly populated East. If a value were fixed, the eastern owner would be satisfied, for a small piece of land would be valued relatively high, but the westerner must own a great many acres of land in order to be worth as much as the easterner. But if a certain size were fixed, the westerner could easily satisfy the test, while the man in the East would find it a hardship. But even so a property test of some kind was a foregone conclusion.

The virtues of the landowner were loudly extolled. He was the only safe repository of civil power. The very fact that he possessed land would insure his being cautious, wise, and prudent in dealing with the State finances, for he paid taxes and supported the State. If the rabble were let in property would be exploited. But it was not necessary to argue very hard. Everything went well here for the property owners. In answer to the argument about taxation and representation they said that the interests of the property owner were so closely identified with the interests of other men that no possible harm could come from leaving the exercise of the franchise with them.

The opposition to the property interests was characterized by an attitude of bitter hopelessness in great contrast to the situation in New York and Massachusetts 9 years before. Here in Virginia, the original stronghold of America's aristocracy, the democratic fever of the age had not yet penetrated. In some other States, Rhode Island, for instance, there was plenty of discontent, but inability to secure an extension of the suffrage. In Virginia all was peaceful. The element that would have made a loud outcry against the restriction of suffrage had been driven away from the State, and hence it was free of the turbulent Democrats who were making life so miserable for the old Federalists up north. Office-holders in Virginia exerted not a little influence, and to a man, of course, they favored a restriction of the suffrage to those who possessed a freehold. The feeling of bitterness was occasionally toward these smug office-holders who spoke so highly of the status quo. They said that things were moving splendidly and that it was foolish to make a change. But they did not always escape without suffering a retort.

Footnote: In answer to one of these men it was said: "A good official station has a charming effect in smoothing the asperities of life and imparting brighter tints to the scenes around one. But it does not follow from all this that the people are content with their disfranchisement. I wish the worthy gentleman a long continuance of the advantages he has so richly merited, but my first wish is for my country"—(Virginia Conv., 1829–30, "Debates," p. 360.) However, the most serious consequence of the restricted suffrage, in the minds of most of those who did urge a broader extension, seemed to be the continued tendency to drive worthy, valuable men out of the State when they were needed so badly.

Footnote: A delegate complained: "I have seen respectable young men of the country, the mechanic, the merchant, the farmer of mature age, with intelligence superior to that of one-half the freeholders, and glowing with a partiotism that would make them laugh at death in defense of their country; I have seen such commanded to stand back from the polls, to give way to the owner of a petty freehold"—(Virginia Conv., 1829–30, "Debates," p. 353).

The ultimate result of the labors of this convention was a rather muddled qualification that was sufficiently illiberal to satisfy the old guard. It provided that one must have an estate or freehold worth $25, or be in occupation of a house worth $20 yearly, or else be the father of a family and pay taxes. This convention also rounded out its work by disfranchising for an infamous crime and excluding the insane and paupers and also soldiers and sailors. The Negro question naturally could not arise in Virginia, and the position of the foreigner was no problem here (Porter, "History of Suffrage in the United States," pp. 72–76).

In speaking of the end of the property tests between 1845 and 1850,

A review of the situation at this date will reveal the fact that an uncompromising property qualification still remained in two States, North Carolina and Virginia.

Footnote: "(A great many histories, books on political institutions, magazine articles, and the cyclopedias give summaries of the early suffrage qualifications and the dates when they were altered. The evidence of these writings frequently seems to conflict, and sometimes it is actually wrong, but there is some confusion as to what, for instance, a property test is. For example, a property qualification existed in Rhode Island after 1843, but there was an alternative by the side of it. Under certain circumstances one need not satisfy the property test. Hence it is decidedly misleading to say that a property test existed there—it did, but it amounted to little. The same situation existed in Louisiana between 1812 and 1844. It was the taxpaying qualification only that was significant. So in this work, when it is said that a property test applied, the implication is that there is no alternative. When an alternative appears, it is the alternative that is significant and not the property test.)" These States were the stronghold of the southern aristocracy, if there was such a thing, and the democratic pioneers who opened up the West never went to these States, and neither did the noisy proletariat that was filling up the busy northern States. Being free of these two elements, Virginia had been able to withstand the democratic tendencies, but in 1850 a constitutional convention eliminated the property qualification without even leaving a taxpaying requirement.

The original committee report which was finally adopted admitted all white male citizens of the United States to the polls. A feeble attempt was made to introduce a taxpaying qualification, but it met with no success. There was more evidence of a desire to use the suffrage machinery as a club to force men to pay their legitimate taxes. A move was made designed to exclude from the polls all who were returned as delinquent. Quite a number of resolutions were presented with this in view. It exhibits a rather unfortunate tendency to warp the suffrage laws away from their proper function. Machinery for the collection of delinquent taxes ought to be adequate without exploiting the suffrage clause. The implication is conveyed that if a man be willing to forgo his vote he may neglect to pay his taxes.

This convention interested itself with the foreigner problem. There was no thought of giving the franchise to unnaturalized foreigners, but the committee was instructed to consider the advisability of imposing special disabilities upon those who had become naturalized, such as extra years of residence, or taking of special oaths. The convention favored the application of a special oath of allegiance to the State of Virginia. No higher residence requirement was exacted, but 2 years in the State was demanded of all. The usual disabilities were also put on soldiers, sailors, the insane, and criminals (Porter, supra, pp. 105–106).

The 2-year residence requirement in Virginia is a rather unusually long one, in contrast to the less conservative States of the West and Middle West which were more anxious to attract newcomers.

In speaking of the effect of the 15th amendment to the U.S. Constitution and the answers to it by the Southern States, it was said of Virginia:

"The last and in many ways the most illuminating and significant step taken by one of the ex-Confederate States to disfranchise the Negro came in Virginia in 1902. It is well worthwhile considering the work of the convention which drew this constitution, for it gives the best view of the situation as it exists in the South today. These delegates met as usual, with the avowed intention of excluding the Negro from the suffrage. As one writer has said, they intended to give permanent and legal form to existing conditions. The Negro did not vote in Virginia to any great extent, and they wished to make his exclusion legal. Where he did vote conditions seemed to be intolerable. A most impassioned plea was delivered in the convention begging the delegates to relieve Virginia of the blight of Negro suffrage. It was said that the real greatness of the States was being obliterated. The able statesmen were overwhelmed by the illiterate Negroes. All ambition in the white man was smothered, for their efforts came to naught in a State where there were large numbers of Negro voters. White men in the Black Belt were unable to contribute anything to the statesmanship of their time. The State could not take its proper place as a leader in the Nation. Reference was made to the gallant struggle of the white men of this State during the past 30 years against Negro misrule and corruption. Relief from this bitter struggle was sought in appropriate constitutional provisions. It was a terrible humiliation to proud Virginians, conscious of their glorious history, to realize that stupid, vicious Negroes had such a large hand in the control of the State government. The attitude of this Virginia convention undoubtedly reflects the situation as it exists in the South today. Southern white men are positively determined to exclude the Negro and only hope that they will be allowed to do it quietly and legally" (Porter, supra, pp. 215–216).

New York's first constitution, drafted by John Jay, was adopted by its convention with but one dissenting vote, in 1777.

And whereas an opinion hath long prevailed among divers of the good people of this State that voting at elections by ballot would tend more to preserve the liberty and equal freedom of the people than voting viva voce: To the end, therefore, that a fair experiment be made, which of those two methods of voting is to be preferred: Be it

Ordained, That as soon as may be after the termination of the present war between the United States of America and Great Britain, an act or acts be passed by the legislature

of this State for causing all elections thereafter to be held in this State for senators and representatives in assembly to be by ballot, and directing the manner in which the same shall be conducted. And whereas it is possible that, after all the care of the legislature in framing the said act or acts, certain inconveniences and mischiefs, unforeseen at this day, may be found to attend the said mode of electing by ballot; it is further

Ordained, That if, after a full and fair experiment shall be made of voting by ballot aforesaid, the same shall be found less conducive to the safety or interest of the State than the method of voting viva voce, it shall be lawful and constitutional for the legislature to abolish the same, provided two-thirds of the members present in each house, respectively, shall concur therein. And further, that, during the continuance of the present war, and until the legislature of this State shall provide for the election of senators and representatives in assembly by ballot, the said election shall be made viva voce.

That every male inhabitant of full age, who shall have personally resided within one of the counties of this State for 6 months immediately preceding the day of election, shall, at such election, be entitled to vote for representatives of the said county in assembly; if, during the time aforesaid, he shall have been a freeholder, possessing a freehold of the value of 20 pounds, within the said county, or have rented a tenement therein of the yearly value of 40 shillings, and been rated and actually paid taxes to this State:

Provided always, That every person who now is a freeman of the city of Albany, or who was made a freeman of the city of New York on or before the 14th day of October, in the year of our Lord 1775, and shall be actually and usually, resident in the said cities, respectively, shall be entitled to vote for representatives in assembly within his said place of residence.

That every elector, before he is admitted to vote, shall, if required by the returning officer or either of the inspectors, take an oath, or, if of the people called Quakers, an affirmation, of allegiance to the State (5 Thorpe, supra, arts. VI, VII, VIII, pp. 2630 and 2631).

In 1821, New York formed a new constitution.

Every male citizen of the age of 21 years, who shall have been an inhabitant of this State 1 year preceding any election, and for the last 6 months a resident of the town or county where he may offer his vote; and shall have, within the year next preceding the election, paid a tax to the State or county, assessed upon his real or personal property; or shall by law be exempted from taxation; or being armed and equipped according to law, shall have performed within that year military duty in the militia of this State; or who shall be exempted from performing militia duty in consequence of being a fireman in any city, town, or village in this State; and also, every male citizen of the age of 21 years, who shall have been for, 3 years next preceding such election, an inhabitant of this State; and for the last year a resident in the town or county where he may offer his vote; and shall have been, within the last year, assessed to labor upon the public highways, and shall have performed the labor, or paid an equivalent therefor, according to law, shall be entitled to vote in the town or ward where he actually resides, and not elsewhere, for all officers that now are, or hereafter may be, elective by the people; but no man of color, unless he shall have been for 3 years a citizen of this State, and for 1 year next preceding any election shall be seized and possessed of a free-hold estate of the value of $250 over and above all debts and encumbrances charged thereon, and shall have been actually rated, and paid a tax thereon, shall be entitled to vote at any such election. And no person of color shall be subject to direct taxation unless he shall be seized and possessed of such real estate as aforesaid.

SEC. 2. Laws may be passed excluding from the right of suffrage persons who have been or may be convicted of infamous crimes.

SEC. 3. Laws shall be made for ascertaining, by proper proofs, the citizens who shall be entitled to the right of suffrage hereby established.

SEC. 4. All elections by the citizens shall be by ballot, except for such town officers as may by law be directed to be otherwise chosen (5 Thorpe, supra, art. II, pp. 2642–2643).

The permission to colored males under certain conditions is an unusual one. In 1846 a constitution was adopted, and submitted to the people, who ratified it. Article II was somewhat modified.

SECTION 1. Every male citizen of the age of 21 years, who shall have been a citizen for 10 days, and an inhabitant of this State 1 year next preceding any election, and for the last 4 months a resident of the county where he may offer his vote, shall be entitled to vote at such election in the election district of which he shall at the time be a resident, and not elsewhere, for all officers that now are or hereafter may be elective by the people; but such citizen shall have been for 30 days next preceding the election, a resident of the district from which the officer is to be chosen for whom he offers his vote. But no man of color, unless he shall have been for 3 years a citizen of this State, and for 1 year next preceding any election shall have been seized and possessed of a freehold estate of the value of $250, over and above all debts and incumbrances charged thereon, and shall have been actually rated and paid a tax thereon, shall be entitled to vote at such election. And no person of color shall be subject to direct taxation unless he shall be seized and possessed of such real estate as aforesaid.

SEC. 2. Laws may be passed excluding from the right of suffrage all persons who have been or may be convicted of bribery, of larceny, or of any infamous crime; and for depriving every person who shall make, or become directly, or indirectly interested in any bet or wager depending upon the result of any election from the right to vote at such election.

SEC. 3. For the purpose of voting, no person shall be deemed to have gained or lost a residence, by reason of his presence or absence, while employed in the service of the United States; nor while engaged in the navigation of the waters of this State, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse, or other asylum, at public expense; nor while confined in any public prison.

SEC. 4. Laws shall be made for ascertaining by proper proofs the citizens who shall be entitled to the right of suffrage hereby established.

SEC. 5. All elections by the citizens shall be by ballot, except for such town officers as may by law be directed to be otherwise chosen (5 Thorpe, supra, p. 2656, art. II).

It was amended specifically in 1874.

SECTION 1. Every male citizen of the age of 21 years who shall have been a citizen for 10 days and an inhabitant of this State 1 year next preceding an election, and the last 4 months a resident of the county and for the last 30 days a resident of the election district in which he may offer his vote, shall be entitled to vote at such election in the election district of which he shall at the time be a resident, and not elsewhere, for all officers that now are or hereafter may be elective by the people, and upon all questions which may be submitted to the vote of the people, provided that in time of war no elector in the actual military service of the State, or of the United States, in the Army or Navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the legislature shall have power to provide the manner in which the time and place at which such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside.

SEC. 2. No person who shall receive, expect, or offer to receive, or pay, offer or promise to pay, contribute, offer or promise to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at an election, or who shall make any promise to influence the giving or withholding any such vote, or who shall make or become directly or indirectly interested in any bet or wager depending upon the result of any election, shall vote at such election; and upon challenge for such cause, the person so challenged, before the officers authorized for that purpose shall receive his vote, shall swear or affirm before such officers that he has not received or offered, does not expect to receive, has not paid, offered or promised to pay, contributed, offered, or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at such election, and has not made any promise to influence the giving or withholding of any such vote, nor made or become directly or indirectly interested in any bet or wager depending upon the result of such election. The legislature, at the session thereof next after the adoption of this section, shall, and from time to time thereafter may, enact laws excluding from the right of suffrage all persons convicted of bribery or of any infamous crime.

SEC. 3. For the purpose of voting, no person shall be deemed to have gained or lost a residence, by reason of his presence or absence, while employed in the service of the United States; nor while engaged in the navigation of the waters of this State, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse, or other asylum, at public expense; nor while confined in any public prison (Thorpe 5, p. 2675, art. II, secs. 1–3).

Here, following the Civil War and the 15th amendment, we notice the omission of provisions concerning persons of color.

In 1894 at Albany, New York framed another constitution.

ARTICLE 2. SUFFRAGE

SECTION 1. Every male citizen of the age of 21 years, who shall have been a citizen for 90 days, and an inhabitant of this State 1 year next preceding an election, and for the last 4 months a resident of the county, and for the last 30 days a resident of the election district in which he may offer his vote, shall be entitled to vote at such election in the election district of which he shall at the time be a resident, and not elsewhere, for all officers that now are or hereafter may be elective by the people, and upon all questions which may be submitted to a vote of the people, provided that in time of war no elector in the actual military service of the State, or of the United States, in the Army or Navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the legislature shall have power to provide the manner in which and the time and place at which such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside.

SEC. 2. No person who shall receive, accept, or offer to receive, or pay, offer or promise to pay, contribute, offer, or promise to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at an election, or who shall make any promise to influence the giving or withholding any such vote, or who shall make or become directly or indirectly interested in any bet or wager depending upon the result of any election, shall vote at such election; and upon challenge for such cause, the person so challenged, before the officers authorized for that purpose shall receive his vote, shall swear or affirm before such officers that he has not received or offered, does not expect to receive, has not paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at such election, and has not made any promise to nor made or become directly or indirectly interested in any bet or wager depending upon the result of such election. The legislature shall enact laws excluding from the right of suffrage all persons convicted of bribery or any infamous crime.

SEC. 3. For the purpose of voting, no person shall be deemed to have gained or lost a residence, by reason of his presence or absence, while employed in the service of the United States; nor while engaged in the navigation of the waters of this State, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse, or other asylum, or institution wholly or partly supported at public expense or by charity; nor while confined in any public prison.

SEC. 4. Laws shall be made for ascertaining, by proper proofs, the citizens who shall be entitled to the right of suffrage hereby established, and for the registration of voters; which registration shall be completed at least 10 days before each election. Such registration shall not be required for town and village elections except by express provision of law. In cities and villages having 5,000 inhabitants or more, according to the last preceding State enumeration of inhabitants, voters shall be registered upon personal application only; but voters not residing in such cities or villages shall not be required to apply in person for registration at the first meeting of the officers having charge of the registry of voters.

SEC. 5. All elections by the citizens, except for such town officers as may by law be directed to be otherwise chosen, shall be by ballot, or by such other method as may be prescribed by law, provided that secrecy in voting be preserved.

SEC. 6. All laws creating, regulating or affecting boards of officers charged with the duty of registering voters, or of distributing ballots at the polls to voters, or of receiving, recording or counting votes at elections, shall secure equal representation of the two political parties which, at the general election next preceding that for which such boards of officers are to serve, cast the highest and the next highest number of votes. All such boards and officers shall be appointed or elected in such manner, and upon the nomination of such representatives of said parties respectively, as the legislature may direct. Existing laws on this subject shall continue until the legislature shall otherwise provide. This section shall not apply to town meetings, or to village elections (5 Thorpe, supra, pp. 2697–2698, art. II).

Section I was amended to add education requirements in 1921—"Elections":

SECTION 1. Qualification of voters: Every citizen of the age of 21 years, who shall have been a citizen for 90 days, and an inhabitant of this State 1 year next preceding an election, and for the last 4 months a resident of the county and for the last 30 days a resident of the election district in which he or she may offer his or her vote, shall be entitled to vote at such election in the election district of which he or she shall at the time be a resident, and not elsewhere, for all officers that now are or hereafter may be elective by the people, and upon all questions which may be submitted to the vote of the people: *Provided, however,* That a citizen by marriage shall have been an inhabitant of the United States for 5 years; and provided that in time of war no elector in the actual military service of the State, or of the United States, in the Army or Navy thereof, shall be deprived of his or her vote by reason of his or her absence from such election district; and the legislature shall have power to provide the manner in which and the time and place at which such absent electors may vote, and for the return and canvass of their votes. Notwithstanding the foregoing provisions, after January 1, 1922, no person shall become entitled to vote by attaining majority, by naturalization or otherwise, unless such person is also able, except for physical disability, to read and write English, and suitable laws shall be passed by the legislature to enforce this provision.

SECTION 1. (a) (Absentee voting): The legislature may, by general law, provide a manner in which, and the time and place at which, qualified voters who may, on the occurrence of any general election, be unavoidably absent from the State or county of their residence because they are inmates of a soldiers' and sailors' home or of a U.S. veterans' bureau hospital, or because of their duties, occupation or business require them to be elsewhere within the United States, may vote, and for the return and canvass of their votes in the election district in which they respectively reside. (Sec. 1(a) was added in 1929) (Constitution of the States and the United States, pp. 1098 and 1099).

In 1938, as a result of a special constitutional convention, New York revised not only the provisions, but the entire structure of its constitution, and the revised version was made effective January 1, 1939.

Article 2 of the revised constitution deals with suffrage:

SECTION 1. Qualifications of voters: Every citizen of the age of 21 years, who shall have been a citizen for 90 days, and an inhabitant of this State for 1 year next preceding an election, and for the last 4 months a resident of the county, city, or village, and for the last 30 days a resident of the election district in which he or she may offer his or her vote, shall be entitled to vote at such election in the election district of which he or she shall at the time be a resident, and not elsewhere, for all officers that now are or hereafter may be elective by the people, and upon all questions which may be submitted to the vote of the people: *Provided, however,* That no elector in the actual military service of the State, or of the United States, in the Army, Navy, Air Force, or any branch thereof, or in the Coast Guard, or the spouse, parent, or child of such elector, accompanying or being with him or her, if a qualified voter and a resident of the same election district, shall be deprived of his or her vote by reason of his or her absence from such election district, and the legislature shall provide the manner in which and the time and place at which such absent electors may vote, and for the return and canvass of their votes: *And provided further,* That in any election district in which registration is not required to be personal, no elector who is registered and otherwise qualified to vote at an election shall be deprived of his or her right to vote by reason of his or her removal from one election district to another election district in the same county within the 30 days next preceding the election at which he or she seeks to vote, and every such elector shall be entitled to vote at such election in the election district from which he or she has so removed.

Notwithstanding the foregoing provisions, after January 1, 1922, no person shall become entitled to vote by attaining majority, by naturalization, or otherwise, unless such person is also able, except for physical disability, to read and write English. (Amended by constitutional convention of 1938; approved by the people November 8, 1938; amended and approved November 2, 1943, November 6, 1945, November 6, 1951; effective January 1, 1952.)

In 1943 an amendment extended residence provisions to include cities or villages.

An amendment in 1945 authorized voting by persons who change residence within 30 days preceding election in permanent registration districts.

A 1951 amendment extended the provision concerning voting by electors in military service to include spouses, parents, or children of electors who are with them, and included electors in the Air Force or in the Coast Guard, and discontinued limitation to time of war.

SEC. 2. Absentee voting: The legislature may, by general law, provide a manner in which, and the time and place at which, qualified voters who, on the occurrence of any election, may be unavoidably absent from the place of their residence because they are inmates of a soldiers' and sailors' home or of a United States Veterans' Bureau hospital, or because their duties, occupation, or business, or those of members of their families, require them to be elsewhere, and qualified voters who, on the occurrence of any election, may be unable to appear personally at the polling place because of illness or physical disability may vote and for the return and canvass of their votes. (Amended and approved November 8, 1955; effective January 1, 1956.)

In other words, it is apparent, as I have pointed out, that each State had its own peculiar definitions, or qualifications, I may say, for voting. But all States reserved unto themselves the right to declare and provide what those qualifications should be.

The 1955 amendment to this section and section 5 of this article authorized the legislature to provide for absentee voting by qualified voters who are unable to appear personally at the polling place on election day because of illness or physical disability, and to provide that voters who are inmates of a veterans' hospital, regardless of its location, and voters who are unable to appear personally for registration because of illness or physical disability, or because their duties, occupations, or business require them to be outside the State of New York, and a spouse, parent, or child of such a voter, accompanying or being with him, if a qualified voter and a resident of the same election district, and if outside the county of such election district, shall not be required to register personally.

SEC. 3. Persons excluded from the right of suffrage: No person who shall receive, accept, or offer to receive, or pay, offer or promise to pay, contribute, offer or promise to contribute to another, to be paid or used, any

money or other valuable thing as a compensation or reward for the giving or withholding a vote at an election, or who shall make any promise to influence the giving or withholding any such vote, or who shall make or become directly or indirectly interested in any bet or wager depending upon the result of any election, shall vote at such election; and upon challenge for such cause, the person so challenged, before the officers authorized for that purpose shall receive his vote, shall swear or affirm before such officers that he has not received or offered, does not expect to receive, has not paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at such election, and has not made any promise to influence the giving or withholding of any such vote, nor made or become directly or indirectly interested in any bet or wager depending upon the result of such election. The legislature shall enact laws excluding from the right of suffrage all persons convicted of bribery or of any infamous crime. (Formerly sec. 2, renumbered 3 by constitutional convention of 1938; approved by the people November 8, 1938.)

SEC. 4. Certain occupations and conditions not to affect residence: For the purpose of voting, no person shall be deemed to have gained or lost a residence, by reason of his presence or absence, while employed in the service of the United States; nor while engaged in the navigation of the waters of this State, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse, or other asylum, or institution wholly or partly supported at public expense or by charity; nor while confined in any public prison. (Formerly sec. 3, renumbered 4 by constitutional convention of 1938; approved by the people November 8, 1938.)

SEC. 5. Registration of voters: Laws shall be made for ascertaining, by proper proofs, the citizens who shall be entitled to the right of suffrage hereby established, and for the registration of voters; which registration shall be completed at least 10 days before each election. Such registration shall not be required for town and village elections except by express provision of law. In cities and villages having 5,000 inhabitants or more, voters shall be registered upon personal application only; but voters not residing in such cities or villages shall not be required to apply in person for registration at the first meeting of the officers having charge of the registry of voters; however, voters who are in the actual military service of the State or of the United States, in the Army, Navy, Air Force, or any branch thereof, or in the Coast Guard, or inmates of a Veterans' Bureau hospital and voters who are unable to appear personally for registration because of illness or physical disability or because their duties, occupation, or business require them to be outside the State of New York; and a spouse, parent, or child of such a voter in the actual military service or of such an inmate or of such a voter unable to appear personally for registration, accompanying or being with him or her, if a qualified voter and a resident of the same election district, and if outside the county of such election district, shall not be required to register personally. The number of such inhabitants shall be determined according to the latest census or enumeration, Federal or State, showing the population of the city or village, except that the Federal census shall be controlling unless such State enumeration, if any, shall have been taken and returned 2 or more years after the return of the preceding Federal census. As amended and approved November 6, 1951, and November 8, 1955.

The 1955 amendment to this section and section 5 of this article authorized the legislature to provide for absentee voting by qualified voters who are unable to appear personally at the polling place on election day because of illness or physical disability, and to provide that voters who are inmates of a veterans' hospital regardless of its location and voters who are unable to appear personally for registration because of illness or physical disability or because of their duties, occupation or business require them to be outside the State of New York, and a spouse, parent, or child of such a voter, accompanying or being with him, if a qualified voter and a resident of the same election district, and if outside the county of such election district, shall not be required to register personally.

SEC. 6. Permanent registration: The legislature may provide by law for a system or systems of registration whereby upon personal application a voter may be registered and his registration continued so long as he shall remain qualified to vote from the same address, or for such shorter period as the legislature may prescribe. (Adopted by constitutional convention of 1938; approved by the people November 8, 1938.)

SEC. 7. Manner of voting; identification of voters: All elections by the citizens, except for such town officers as may by law be directed to be otherwise chosen, shall be by ballot, or by such other method as may be prescribed by law, provided that secrecy in voting be preserved. The legislature shall provide for identification of voters through their signatures in all cases where personal registration is required and shall also provide for the signatures, at the time of voting, of all persons voting in person by ballot or voting machine, whether or not they have registered in person, save only in cases of illiteracy or physical disability. (Formerly sec. 5, renumbered 7, and amended by constitutional convention of 1938; approved by the people November 8, 1938.)

SEC. 8. Bipartisan registration and election boards: All laws creating, regulating or affecting boards or officers charged with the duty of registering voters, or of distributing ballots to voters, or of receiving, recording, or counting votes at elections, shall secure equal representation of the two political parties which, at the general election next preceding that for which such boards or officers are to serve, cast the highest and the next highest number of votes. All such boards and officers shall be appointed or elected in such manner, and upon the nomination of such representatives of said parties respectively, as the legislature may direct. Existing laws on this subject shall continue until the legislature shall otherwise provide. This section shall not apply to town, or village elections. (Formerly sec. 6, renumbered 8, and amended by constitutional convention of 1938; approved by the people November 8, 1938.)

There is an interesting discussion of the fight against the early property qualifications in New York.

The following decade, 1820–30, witnessed three of the most noteworthy constitutional conventions in the history of the United States. Jeffersonian democracy had done its work. Delegates came to the conventions fired with determination to vindicate the teachings of democracy or, on the other hand, to make one last heroic stand for conservatism and property rights. In New York there was staged a battle royal centering largely around the suffrage question. The property interests were represented by some of the best political talent in the country, Chancellor Kent being one of the most conspicuous delegates. They were determined to save as much of special privilege for themselves as they possibly could, and only acquiesced in compromise when they saw that their cause was hopeless. For many years it had been obvious that property was bound to lose its prestige everywhere in the Union. The new incoming States in the Mississippi Valley were not even giving property a taste of special privilege. The new States farther east were tempering property qualifications with alternatives that paralyzed, and when property tests were included they were so very small and insignificant as to be of no importance. The propertied class had seen its best days and knew it. Only in such States as New York, where there were large and ancient property interests bulwarked with many years of special privilege, could a vigorous fight be put up, for it must be remembered that the electorate is something like a closed corporation, only enlarging itself by co-opting whom it pleases. All extension of the suffrage must come through those who have it. In New York there were very powerful property interests capable of exerting vast influence.

A certain amount of propaganda against property qualifications had been spread over the State previous to the convention, but the precepts of the new democracy hardly needed propagation. What was needed was talent capable of bearing down the conservative vested interests and courage to take advantage of numerical majority and draw a constitution that the people really wanted. In New York this was not quite done, and the people remedied the fault by means of a referendum 5 years later. The popular opinion now was that a property qualification always was bad. The proposition was advanced that if a property test were small it tempted to fraud, and if it were large it created an aristocracy. The idea also gained popularity that the property holder, by virtue of his wealth, was better able to protect himself than the poor man, who therefore needed Government protection most. And yet there seems to have been prevailing a sort of undeliberative feeling for manhood suffrage that felt no need for argument.

The committee on elective franchise in the New York convention of 1821 proposed to abolish all property distinctions and make the right to vote uniform. This committee advanced the proposition that property distinctions were of British origin, where the various classes of society needed special representation. In the United States there was only one homogeneous group—the people—and all interests were identical. The only qualification should be virtue and morality. But although the property interests had been unable to get a favorable committee report they marshaled their forces and proceeded to assail the liberal position of the franchise committee.

It was very soon evident that a general-property test could never be put through. All proposals, however mild, were decisively repudiated. But the property interests were not lacking in resourcefulness. They immediately proposed to retain a property qualification for voters for Senators, and on this proposition they based all their hopes. It was insisted that real property afforded the most substantial security to the Government. It was considered to be the main source of wealth from which the State could draw its revenue. Its immovable and imperishable qualities made it a secure and tangible bulwark to which the State might tie. Possession of real property was considered the best possible evidence of a firm interest in the well-being of the State, would make the owner cautious about public expenditures, insure economy, etc. The same argu-

ments that had served the purpose for two centuries were brought forth. And the suggested compromise of having a property qualification for electors of Senators provided a fine opportunity to press these arguments with new force.

The suggested compromise also offered opportunity for a new theory of representation to be developed. It was said that men have equal rights, to be sure, but if every man has life and liberty to be protected the property owner has something more. Hence let the unpropertied man vote for members of the lower house, but let the senate serve as a protection for property and allow only property owners to vote for senators. When the government protected all a man possessed, what more could he ask? But in all justice the man with property should have that protected as well as his life and liberty. This argument supported in a new way the well-known doctrine of checks and balances. It was urged that it was not expedient to derive both houses from identical constituencies, and what could be more logical than to give to property owners special representation? These arguments made a very strong appeal. Even the ablest of the progressives seemed not to recognize the illogical position of property owners in claiming a larger share in supporting the government. The truth seemed never to be brought out that the real producer of wealth contributed to the support of the State every day he worked, and whether or not he owned property was quite inconsequential. Of course, property owners would not accept such a doctrine, but it is strange that the unpropertied men did not see it either. They found these arguments of the conservatives exceedingly hard to combat and many times just sullenly refused to agree to their arguments without attempting to dispose of them.

But the idea of looking upon legislators as representing certain defined interests, life, liberty, property, etc., involved a division of labor, as it were, that was quickly shown to be absurd. If the argument was sound, men should be represented according to the amount of property they owned, the wealthy man enjoying the largest representation, the man with only life and liberty enjoying the least. Also, it was pointed out, such a scheme would at once create clearly defined political groups based on property lines, which circumstance would have a distinctly unwholesome effect on the body politic. Cleavages on political questions would then cut horizontally, as it were, instead of vertically; that is, men of all classes would not take sides on the merits of the issue at hand, but men of particular classes would line up according to their property holdings.

Such a situation would cause to exist in every community two distinct more or less hostile factions based solely on property. This would involve a perpetuation of an illusory division of interests that would be quite unfortunate.

Another aspect of the case was this: The prejudice against foreigners developed in the 20 years following the Revolution had by no means died out, and farseeing men could easily look forward to the new foreigner problem destined to trouble the States in later years. The new influx was to be from Ireland and Germany as well; the Englishmen and the few Frenchmen were rapidly disappearing, but the other type was coming. These conventions in the early twenties really came between these two periods; but statesmen saw the coming throng and urged that property tests would protect the State against the tumultous, disorderly Irishmen in the cities and the Germans in the country. It was an argument that made a strong appeal, for men yet felt that America was for Americans and heartily resented the participation even of naturalized citizens in the affairs of government. It was not until the Western States felt the need of foreigners to develop their untilled lands that this prejudice was broken down, and even so it died hard and even resulted in the formation of very considerable political parties. It was just about this time, 1821, that the lines upon which this new problem was to be fought out began to appear. There is no doubt that this argument had as much to do as any other single point with maintaining the taxpaying qualification.

There was every evidence in the debates of this convention that the delegates were not sure of their ground, that they were not at all positive as to what the people really wanted. This comment surely is justified by the fact that less than 5 years after the convention the people repudiated their suffrage clause. In every convention advocates insist that they are backed up by a majority of the people, of course, but tendency to vacillate, propose compromises, and in general exhibit great uncertainty shows that here there was a real doubt. The mere fact that the convention was willing to tolerate the endless debates illustrates the uncertainty, and even so the final vote on the property test for senatorial electors was quite decisive. After an exceedingly long wrangle, dragged out by endless speeches merely reiterating the same old arguments, the property interests succumbed 100 to 19. Property had made its last stand and had failed. All that could be secured was a trifling taxpaying qualification with a paralyzing alternative.

The tax qualification was put in these terms: Electors must have paid a State or county tax, or have performed military service, or have worked on the highway, or have lived 3 years in the State instead of the 1 year prescribed ordinarily. These alternatives, of course, have every earmark of makeshift compromise. These were the only things many of the progressives had the courage and skill to insist upon, and of course they drew the sting out of the taxpaying test. It can be understood how these measures were nervously and apologetically inserted to secure what was really wanted, whereas the property and tax tests could have been boldly repudiated altogether.

Chancellor Kent feared excess of democracy. He would not bow before the idol of universal suffrage. It would be treason to the agricultural element, the backbone of the State; this must have safeguards thrown around it as protection from the city mob of irresponsibles. He painted a dreadful picture: "The Radicals of England, with the force of that mighty engine (universal suffrage), would at once sweep away the property, the laws, and the liberties of that island like a deluge." He heaped scathing contempt upon the proposed alternatives. Serving a day upon the road or an idle hour in the militia, said he, was a mere nominal test of merit. The convention had not the courage to defeat him utterly, and hence the compromises.

But the convention was not so disdainful about the idle hour in the militia. It seemed fundamentally unjust that the men who fought the Nation's battles might not vote. Many a veteran of the War of 1812 found the polls closed to him, and this offended the innate sense of justice in men. An attempt was made to get in a clause that would enfranchise veterans but not the militiamen, a great many of whom, it was said, never did anything but parade. One of the generals said that he was not in favor of permitting anyone to vote who was not to be found when the taxgatherer or the enemy appeared, and yet he wanted only veterans to be relieved of taxpaying tests, not the militiamen. Indeed the plight of veterans was greatly exploited in oratorical and emotional manner. The president of the convention contributed to this and elicited a sarcastic retort from one member:

"Vivid and impressive as was the picture drawn by our President of the gallant officer who died of a broken heart because, as it would seem, he was not an elector, even a limited fancy might add to the apparent injustice of our country. Suppose the gallant hero had been a youth of 20 years of age. Is it proposed to embrace his case and make brave infants voters?"

And yet not a few men were convinced that if a brave infant was able to carry a gun for his country he was able to carry a ballot to the voting booth, and there is no little doubt that if the gentleman had continued with the sarcasm "brave infants" might have been provided for as well as their elders. A deepseated affection existed then as now for the boys who went to war, and only calm judgment, not lack of appreciation of their service, resulted in keeping the age limit at 21. Militiamen as well as veterans were exempted from the tax test by a vote of 68 to 48.

As to workers on the highway, the franchise was extended to them because such work was considered equivalent to a tax. It is unnecessary to develop the argument.

But the property test was not the only problem that occupied the attention of the New York convention in fixing the suffrage qualifications. The free Negro was coming to be a problem at this time. And in fact it was in this very convention that one of the first great battles for Negro suffrage was staged. From this time on Negro suffrage was an issue everywhere outside the strictly Southern States. In the border States, of course, the battle waged the fiercest. Some Negroes were being set free, others were escaping from their owners, and naturally most of them went no farther north than across the border of a free State. The number of such men was rapidly growing, and before long the problem of Negro suffrage eclipsed the problem of the foreigner. Foreigners were quickly absorbed and ceased to advertise the fact of their difference from native Americans, but the Negro never could hide his identity, and black faces at the polls invariably roused a storm of indignation among a certain class of people. Hence there was no hope for settlement until the Civil War was over.

New York was not a State that suffered greatly from the presence of the Negro, and yet there were enough of them there to stir up very keen interest in the matter, and the convention of 1821 was very ready to discuss any suffrage issue to the bitter end. At once the proposition was set forth that color had nothing to do with ability to vote. Color was declared to be an utterly foolish standard, having no rational basis. There was no excuse for considering the matter of color at all. All freemen should be treated exactly alike. It was said that to deny the Negro the right to vote was to "punish the children for the crime inflicted upon their parents." The Negroes constituted a one-fortieth part of the population, and the present was an excellent time to begin training them for intelligent citizenship.

It seems that the State law of New York prevented the Negroes from serving in the militia, although there is little doubt that they would have been welcome enough in time of war. The argument that since they were not in the militia and hence were not under arms and ready to defend the State was answered by saying that there was no good reason why they should not be in the militia. This exclusion from the militia led to another consideration. Was it not unwise to set up and perpetuate distinctions that might cause serious rupture in the future? Such a policy of exclusion from participation in government activity was

calculated to inspire jealousy, resentment, distrust, and hatred that might prove quite inimical to the best interests of the State and would surely be inconsistent with sound policy. It would alienate one portion of the community from the other, and such a state of affairs could never make for good.

But the argument which carried the most weight seemed to be that as the Negro was subject to all acts of the legislature he should have a voice in the election of representatives. He also was taxed if he owned property (which was seldom), and in such cases the sacred principle of no taxation without representation was ruthlessly violated. It is interesting that arguments having the most weight very frequently proved weak and unworkable when carried out consistently. This has been particularly true of the doctrine of natural right, the doctrine that men had a natural right to vote. It was used so much that a few paragraphs devoted to it here will not be out of place.

In the matter of suffrage a principle of exclusion must be followed. No visionary, even worshiping and abstraction, would go so far as to support universal suffrage absolutely. The possibility of allowing infants and imbiciles to vote is not debatable. Thus inevitably, even when a person exploits the natural, inalienable, inherent right-to-vote doctrine, he necessarily excludes someone; but he sets whatever limitation seems to him consistent with his individual interpretation of natural right. Hence every expression of natural right is anomalous. Every individual who uses the phrase determines upon what he thinks is right under the circumstances and in the light of his understanding and then uses the words natural, inalienable, and inherent in order to give his opinion a sonorous sound. Hence the phrase "natural right to vote" has been quite meaningless when subjected to close analysis. Practically all who have used the doctrine have tacitly left out young men under 21, almost all have left out women, a larger number have left out Negroes, and usually criminals and paupers have been left out by common consent. But the doctrine of natural right has had tremendous influence, and there appears the strange phenomenon of suffrage being carried forward on a tide of fallacies and specious doctrine.

There would surely be reaction and a return to former conditions were it not for the fact that the forward movement has really had a sound basis. The reason suffrage has broadened is because it was best for all mankind that it should broaden, not because any particular group had an inherent right to the franchise. Personal rights are completely swallowed up in a doctrine of social good, of expediency, and in the past have been sacrificed to it almost unconsciously. Men have been unwilling to say that certain groups have been left out or admitted because it has seemed best from the social point of view. They have much preferred to dilate on personal rights.

Quite a number of men in this convention were evidently opposed to Negro suffrage, but they were more or less apologetic about it and did not like to speak out plainly. They made long explanations of their votes and based them usually on the statement that the Negroes were probably inefficient and incompetent, unable to exercise the right in a proper way. But a few strong-minded individuals spoke loudly about matters which many secretly believed but did not care to espouse because of the difficulty of reconciling popular ideas of democracy with exclusion of Negroes. The colored race was said to be far, far below the white in the social structure. It would disrupt society to admit these debased men to the suffrage. When they could be met as equals in social intercourse, then would be the time to extend the suffrage rights to them. Obviously such arguments as this and others of the same sort reflecting upon the Negro's ability and mental capacity would apply with equal force to any group of men suffering similar limitations. New York's struggle over Negro suffrage merely illustrates again the recurring situation in connection with suffrage extension—firm-rooted determination not based on logical argument that would bear analysis. Invariably the partisans on either side would argue the question of right, the questions of democracy, taxation, representation, consent of governed, social position, and always avoid the real determining factor of expediency. Those who sought to secure suffrage for the Negro knew that they could not support their cause by saying that they believed it would be for the good of the State, so they invoked democratic philosophy, sympathetic interest, and natural rights. The opponents did not care to be so brazen as to declare that admitting the Negro would be a bad thing for the State regardless of his rights, the dictates of democracy, the Declaration of Independence, and what not. So they twisted and squirmed as best they could to construe democratic philosophy against those who invoked it and to show that the Negro's rights were not invaded. They were driven to the doctrine of expediency but would not admit it. In nearly every case where the issue rose and the Negroes were excluded it was because of a sullen conviction that it would not be right to let them in. Men were easily brought to a point of violent indignation, deaf to all argument, by such persons as Colonel Young, who recalled the unfortunate mistake in New Jersey that permitted women to vote there for a time. He became almost apoplectic over the possibility of a Negress voting in New York.

The point simply is that many a time, in fact in the majority of cases, a decision was reached through ridiculous channels that would have been arrived at just the same were the question dealt with in a rational manner.

After a very long debate a compromise was affected. Full Negro suffrage had lost by a very narrow margin. Now it was proposed to grant the ballot to those Negroes who owned property. This proposition, of course, struck at the very root of the opposition argument. Evidence of holding property was considered pretty good indication of interest in the community and capacity to act intelligently. Lack of such capacity had been the chief argument against the Negroes. Enough of the opposition was persuaded that this was so, and a clause was inserted in the constitution granting the ballot to Negroes owning $250 worth of property on which they paid taxes. Of course, such a compromise was quite irrational; if there was any virtue in the principle involved, it should have been applied to all men. But there were enough men in the convention satisfied with such a compromise, and hence the property test was prolonged in New York for the benefit of the Negro race.

A great many times delegates spoke of coming universal suffrage. The concept seems to have penetrated this convention as it had no other previous to this time. Many contemplated it with great alarm; others looked upon its coming with great complacency. Some delegates saw the way the wind was blowing; that every group which had the slightest claim to suffrage could find defenders in a convention, that compromise and logrolling inevitably would let down the bars on every side, and that every step in advance made the next step doubly easy. It is significant that the suffrage extension did run smoothly until it struck the Negro problem; getting over the race barrier was a much more difficult matter than letting a few more white men in by one means or another. In fact there are three very important things to note in connection with the debates on suffrage in this particular convention: First, the property test was easily disposed of. Those who wanted it saw that their cause was lost and devoted their energies to securing a taxpaying qualification. Secondly, the taxpaying proposition elicited thorough, intelligent, honest, and moderate debate, with opinion fairly evenly divided. Thirdly, the Negro-suffrage issue plunged the convention into a turmoil of irrational, bombastic, verbose oratory, hiding prejudice, indecision, and stupidity.

Five years later, in 1826, a referendum was allowed on the taxpaying clause of the constitution and the voters of the State turned it down. Thus New York in 1826 in a most effective and democratic manner put away once for all property and taxpaying qualifications for the suffrage. There had been considerable indecision exhibited in the convention, and public opinion seems to have crystallized soon after, if indeed it had not been well formed before. Seldom has it happened that a State has made such a significant step in such a fitting way (Porter, "History of Suffrage in the United States," p. 54).

New York, of course, had to cope with a particularly difficult "foreigner" problem.

To show the influence of foreigners upon American political institutions, the city of New York is a conspicuous example: of the population in 1910, over 40 percent was foreign born and over 38 percent of foreign parentage—leaving but a little over 21 percent with a truly American heritage. About one-half of the immigrants stopped in New York City formerly. Also, just when the tide of immigration began to rise, all offices were made elective. No wonder that Tammany became a power. In 1868 Tweed's judges "naturalized" over 41,000 aliens (the annual average for the previous decade had been a little over 9,000) and there were 8 percent more votes cast than there were electors in the city. It has been said that the Irish rule Tammany and thus New York City and the Nation. New York has afforded an instance of city misgovernment that might be duplicated in other large cities of America, for the percentage of foreign-born denizens and the political status is quite similar. One reason for all this is apparent; the alien voter.

The most helpless classes of immigrants do not venture into the country. And it is because they colonize in the great cities that they are so dangerous politically. They do not there come in contact with American ideas and ideals but are directly under the influence of corrupt politicians. Hence the foreign wards are usually a unit against good and honest government. It is almost impossible for any but "their own" to reach these congested foreign quarters, because of their prejudice and clannishness. Therefore, they obey the "boss" implicitly. The "big man" operates through henchmen racially entrenched in these alien wards. The aliens that settle in the country districts come into much closer touch with their American neighbors, and after a generation they are thoroughly Americanized. Especially, is this true of immigrants from northern Europe. Theirs is a comparatively easy problem. The American city, while it leads the Nation's public opinion with its press, is at the same time the cancerous sore that contaminates the whole body politic. The core of the evil is the foreign voter—ignorant but not often vicious. It is hopeless to permanently better civic conditions until this menace is removed.

Not all foreign electors are unsafe. Even in New York City a majority of the voters are opposed to the corrupt methods in their government. The mass of honest citizens does not always submit to the rule of the boss. Samuel J. Tilden led a reform against

Tweed, who died in prison. Again, Seth Low won in the struggle for clean government honestly administered; but in the succeeding election partisanship was again active and the reformer failed of reelection. More recently, John Mitchell gave the city an efficient administration, but he failed to secure another term as mayor. The great difficulty is to maintain a sustained effort on the part of the unorganized mass of honest electors, while the machine is always at work—in season and out of season. The result has been that there have been waves of reform followed by a gradual return to the former corrupt conditions. Public opinion is mighty when aroused, but it is long suffering and has a very poor memory. The public had rather suffer than act. Because of the lethargy on the part of the average citizen, the ignorant and un-American voter in the city will continue under machine direction and, therefore, a menace to American institutions (McCulloch, "Suffrage and Its Problems," pp. 142, 143, 144).

North Carolina was chartered in 1663 by Charles the Second. The so-called fundamental constitutions of Carolina came in 1669. In 1776 the first constitution of North Carolina as a State was framed.

VII. That all freemen, of the age of 21 years, who have been inhabitants of any one county within the State 12 months immediately preceding the day of any election, and possessed of a freehold within the same county of 50 acres of land, for 6 months next before, and at the day of election, shall be entitled to vote for a member of the senate.

VIII. That all freemen of the age of 21 years, who have been inhabitants of any one county within this State 12 months immediately preceding the day of any election, and shall have paid public taxes, shall be entitled to vote for members of the house of commons for the county in which he resides.

IX. That all persons possessed of a freehold in any town in this State, having a right of representation, and also all freemen, who have been inhabitants of any such town 12 months before, and at the day of election, and shall have paid public taxes, shall be entitled to vote for a member to represent such town in the house of commons: *Provided, always,* That this section shall not entitle any inhabitant of such town to vote for members, of the house of commons, for the county in which he may reside, nor any freeholder in such county, who resides without or beyond the limits of such town, to vote for a member for said town (5 Thorpe, p. 2790).

This was amended in 1835 as follows:

SEC. 3. (1) Each member of the senate shall have usually resided in the district for which he is chosen for 1 year immediately preceding his election, and for the same time shall have possessed and continue to possess in the district which he represents, not less than 300 acres of land in fee.

(2) All freemen of the age of 21 years (except as is hereinafter declared), who have been inhabitants of any one district within the State, 12 months immediately preceding the day of any election, and possessed of a freehold within the same district of 50 acres of land, for 6 months next before and at the day of election, shall be entitled to vote for a member of the senate.

(3) No free Negro, free mulatto, or free person of mixed blood, descended from Negro ancestors, to the fourth generation inclusive (though one ancestor of each generation may have been a white person), shall vote for members of the senate or house of commons (5 Thorpe, p. 2796).

The broad Negro exclusion is of interest. Clause 2 was further changed in 1856.

ARTICLE 1

SEC. 3. Clause 2: Every free white man at the age of 21 years, being a native or naturalized citizen of the United States, and who has been an inhabitant of the State for 12 months immediately preceding the day of any election, and shall have paid public taxes, shall be entitled to a vote for a member of the senate for the district in which he resides (5 Thorpe, supra, p. 2799).

In 1868 a new constitution was formed under the Reconstruction Acts of Congress. Section 10 of article I provided:

All elections ought to be free (5 Thorpe, supra, p. 2801).

SECTION 1. Every male person born in the United States, and every male person who has been naturalized, 21 years old or upward, who shall have resided in this State 12 months next preceding the election, and 30 days in the county in which he offers to vote, shall be deemed an elector.

SEC. 2. It shall be the duty of the general assembly to provide from time to time, for the registration of all electors, and no person shall be allowed to vote without registration, or to register, without first taking an oath or affirmation to support and maintain the Constitution and laws of the United States, and the constitution and laws of North Carolina not inconsistent therewith.

SEC. 3. All elections by the people shall be by ballot, and all elections by the general assembly shall be viva voce.

SEC. 4. Every voter, except as hereinafter provided, shall be eligible to office; but before entering upon the discharge of the duties of his office, he shall take and subscribe the following oath: "I, ———, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office: So help me God."

SEC. 5. The following classes of persons shall be disqualified for office: First, all persons who shall deny the being of Almighty God; second, all persons who shall have been convicted of treason, perjury, or of any other infamous crime, since becoming citizens of the United States, or of corruption, or malpractice in office, unless such persons shall have been legally restored to the rights of citizenship (5 Thorpe, supra, p. 2801).

In 1875 a constitutional convention made a number of changes in the 1868 North Carolina constitution, and in 1899 additional modifications were approved.

Article VI, dealing with suffrage and eligibility to office, was redrafted and submitted to a popular vote August 2, 1900, to become effective July 1, 1902.

Except for minor changes made after that time, the 1900 revision reflects the present North Carolina voting requirements.

Under the existing North Carolina constitution, section 1 reads:

SECTION 1. Who may vote. Every person born in the United States, and every person who has been naturalized, 21 years of age, and possessing the qualifications set out in this article, shall be entitled to vote at any election by the people of the State, except as herein otherwise provided (Constitution 1868; convention 1875; 1899, c. 218; 1900, c. 2; 1945, c. 634, s. 2).

Comparing this section with section 1 of the original 1868 constitution, a number of changes are apparent. First, the convention of 1875 changed the 30-day residence requirement in the county, to 90 days, and added the sentence:

But no person who, upon conviction or confession in open court, shall be adjudged guilty of a felony, or any other crime infamous by the laws of this State, and hereafter committed shall be deemed an elector, unless such person shall be restored to the rights of citizenship in a manner prescribed by law.

This section was last amended by vote at the general election of 1946. The amendment deleted the word "male" formerly appearing before the word "persons."

Section 2 of the present constitution was added in 1900. The first sentence at that time read:

He shall have resided in the State of North Carolina for 2 years, in the county 6 months, and in the precinct, ward, or other election district in which he offers to vote, 4 months next preceding the election.

A minor change in phraseology was made in 1920, and in 1954 another revision of the first sentence was ratified. At the present time section 2 reads as follows:

SEC. 2. Qualifications of voters. Any person who shall have resided in the State of North Carolina for 1 year, and in the precinct, ward or other election district in which such person offers to vote for 30 days next preceding an election, and possessing the other qualifications set out in this article, shall be entitled to vote at any election held in this State: *Provided,* That removal from one precinct, ward or other election district to another in this State shall not operate to deprive any person of the right to vote in the precinct, ward or other election district from which such person has removed until 30 days after such removal. No person who has been convicted, or who has confessed his guilt in open court upon indictment, of any crime the punishment of which now is, or may hereafter be, imprisonment in the State's prison, shall be permitted to vote, unless the said person shall be first restored to citizenship in the manner prescribed by law (Convention 1875; 1899, c. 218; 1900, c. 2, s. 2; ex. sess. 1920, c. 93; 1953, c. 972).

Section 3 was formerly section 2 of the 1868 constitution. In 1899, it was revised and renumbered to read as follows:

SEC. 3. Voters to be registered. Every person offering to vote shall be at the time a legally registered voter as herein prescribed, and in the manner hereafter provided by law, and the General Assembly of North Carolina shall enact general registration laws to carry into effect the provisions of this article (Constitution 1868; 1899, c. 218, 1900, c. 2, s. 3).

Section 4 was added in 1899. A number of changes were made in 1920, the most important of which was eliminating language requiring payment of a poll tax as a prerequisite to voting. At present the section reads:

SEC. 4. Qualification for registration: Every person presenting himself for registration shall be able to read and write any section of the constitution in the English language. But no male person who was, on January 1, 1867, or at any time prior thereto, entitled to vote under the laws of any State in the United States wherein he then resided, and no lineal descendant of any such person, shall be denied the right to register and vote at any election in this State by reason of his failure to possess the educational qualifications herein prescribed: *Provided,* He shall have registered in accordance with the terms of this section prior to December 1, 1908. The general assembly shall provide for the registration of all persons entitled to vote without the educational qualifications

herein prescribed, and shall, on or before November 1, 1908, provide for the making of a permanent record of such registration, and all persons so registered shall forever thereafter have the right to vote in all elections by the people in this State, unless disqualified under section 2 of this article. (Constitution 1868; 1899, ch. 218; 1900, ch. 2, sec. 4; ex. sess. 1920, ch. 93.)

Section 5 was also added in 1899. It reads:

SEC. 5. Indivisible plan; legislative intent: That this amendment to the constitution is presented, and adopted as one indivisible plan for the regulation of the suffrage, with the intent and purpose to so connect the different parts, and to make them so dependent upon each other; that the whole shall stand or fall together (1900, ch. 2, sec. 5).

Section 6 of the present constitution was formerly section 3. It reads:

SEC. 6. Elections by people and general assembly: All elections by the people shall be by ballot, and all elections by the general assembly shall be viva voce. (Constitution 1868; 1899, ch. 218.)

Section 4 of the constitution of 1868 became section 7 of the present constitution, pursuant to chapter 218, Public Laws of 1899, and chapter 2, Public Laws of 1900. It now reads:

SEC. 7. Eligibility to office; official oath: Every voter in North Carolina, except as in this article disqualified, shall be eligible to office, but before entering upon the duties of the office he shall take and subscribe the following oath:

"I, ——— do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as ———, so help me, God. (Constitution 1868; 1899, ch. 218; 1900, ch. 2, sec. 7.)

Section 8 is based upon section 5 of the constitution of 1868. It reads as follows:

SEC. 8. Disqualification for office: The following classes of persons shall be disqualified for office: First, all persons who shall deny the being of Almighty God; second, all persons who shall have been convicted or confessed their guilt on indictment pending, and whether sentenced or not, or under judgment suspended, of any treason or felony, or of any other crime for which the punishment may be imprisonment in the penitentiary, since becoming citzens of the United States, or of corruption or malpractice in office, unless such person shall be restored to the rights of citizenship in a manner prescribed by law. (Constitution 1868; 1899, ch. 218; 1900, ch. 2, sec. 8.)

The only change was a rewording of the second classification of persons disqualified from office, which formerly read:

Second, all persons who shall have been convicted of treason, perjury, or of any other infamous crime, since becoming citizens of the United States, or of corruption, or malpractice in office, unless such person shall have been legally restored to the rights of citizenship.

Concerning the history of North Carolina's sweeping exclusion of the Negro at an early date, we find the following:

In spite of the schemes to be rid of him the Negro is here to stay. The Negro will not go, nor will the whites let him go. Exemplifying the attitude of the South, North Carolina prohibited the exportation of Negroes. Amalgamation is out of the question. So it may be safely concluded that the Negro will remain in America: an alien element intermixed with the whites, yet distinct and unabsorbable. In 1920 there were 10,463,131 Negroes in the United States, with total population of 106,418,284. Considering that the South contains one-third of the population of the United States and that one-third of this is Negroes (in two Commonwealths they are in the majority), the Negro problem of suffrage is paramount. There are 5,522,475 possible Negro voters, while 1,512,987 blacks of voting age are illiterate. It is purely a political question. While the Negro deserves industrial equality, social is impossible.

Race prejudice is an Anglo-Saxon trait. It has greatly hindered England in her government of India. The Romance peoples (notably the Spanish) have not shown this race aversion but have mingled their blood freely with that of the red, black, and brown races—result, Latin-America, not a desirable racial achievement, certainly. In the United States race prejudice has not been strictly sectional; nor is it so now. North Carolina prohibited the teaching of Negroes in 1830, while a mob destroyed the Crandall School in Connecticut because of Negro pupils. After following the color line, Ray Stanard Baker concluded that the South has little hope for the Negro as a race but rather likes the individual, while the North has great expectations for the race but is impatient with its concrete representative. The climate is not the only thing that has kept the Negro south of Mason and Dixon's line. In the early history of the Colonies there were no racial tests for suffrage even in the South. The first law debarring Negroes was passed in North Carolina in 1715, but at the mandatory request of the Crown was repealed in 1743. The precedent was followed by other southern colonies. South Carolina had such a law in 1716, Virginia in 1723 (repealed by proclamation and reenacted in 1762), and Georgia in 1761. The year 1835 saw the last Negro voter in the South until Reconstruction days; in that year North Carolina finally disfranchised Negroes. Tennessee had withdrawn the privilege of allowing Negroes to vote in 1834. There were no race qualifications in the North previous to the Declaration of Independence (McCulloch, "Suffrage and Its Problems," pp. 78 and 79).

In North Carolina the following year, 1855, the same problem was in evidence. Previous to this time there had been nothing in the constitution to prevent the Negro from exercising the right of suffrage. This was a rare situation in the South, but it is said on good authority that practically none of the black race was suffered to attend the polls.

(Footnote: Weeks, "Political Science Quarterly," IX, 675): Where the law was lax public opinion filled the breach, and Negroes for the most part were sufficiently content with their freedom and kept away from the polls. Virginia provided a good illustration. The constitution of 1830 did not exclude them in terms, and in fact this was not done until 1864, yet the same authority declares that "Negroes never voted in Virginia in the period from the Revolution to the Civil War." It, therefore, required some boldness for delegates to press the cause of free Negroes.

The first committee report in the North Carolina convention excluded Negroes and mulattoes within four degrees. The social inferiority of the Negro was much stressed. It was said that public sentiment would inevitably exclude him from most of the important activities of social and political life and that it was foolish to attempt to bring about a situation of equality by law that that free Negroes were in a peculiarly difficult position. They were a sort of buffer between the whites and slaves. Some looked upon this group as a mongrel, outcast, nondescript lot that were eminently undesirable, while others looked upon them as a link between the other two groups, through whom more satisfactory and sympathetic relationships could be developed. The number of free Negroes was by no means inconsiderable in this part of the country. To a certain extent Negroes were being freed by their masters as the sentiment against slavery developed, and this very situation contained a menace, said some, for if the free Negroes were permitted to vote, their ex-masters would have such a strong influence over them as to control the suffrage to their own ends.

Compromises were introduced in the North Carolina convention as elsewhere. Whereas in some other States compensating benefits were conferred in repayment for exclusion, in North Carolina the compromises took a different form. It was suggested that additional qualifications be exacted of the Negro in order that he might vote. Two hundred and fifty dollars' worth of property was suggested by some; others thought that if a Negro had never been convicted of any misdemeanor or crime he should be permitted to vote. But such halfway measures derogated from the principle involved and really failed to satisfy either side. It was declared that if these qualifications were appropriate at all they should be applied to all men, and most of those who opposed the Negro suffrage could not be moved by additional qualifications that really had nothing to do with the Negro as a Negro.

The taxation-without-representation argument was introduced briefly, but the convention met it with some impatience. These old-time arguments, relics of Revolutionary days, always have been exploited, and it is interesting to note how irritating they were, for as the science of politics developed and new situations appeared men saw how utterly impossible it was to carry out the doctrines to their logical conclusion. It would mean that every individual who paid a tax should vote, that all who were governed should have opportunity to consent or dissent, etc. But the phrases had a charming sound until they worked like boomerangs, and then they stirred up disagreeable doubts and were dreadfully annoying.

The North Carolina convention finally decided to exclude the Negro completely and not even let him in under the various compromises that were suggested. It was a very close decision, 64 to 55. If what has been said by certain writers be quite true, that Negroes as a matter of fact did not exercise the suffrage even when it was not forbidden them, it is rather difficult to understand why so much attention should be given to the question. It would seem that public sentiment was decidedly against their voting, and yet their cause was ably supported by a considerable number in the convention. It indicates that the question was largely one of principle.

This year did not witness the complete abondonment of the property qualification in North Carolina. It was still made necessary to possess 50 acres of land in order to vote for Senators. The old aristocratic element was still able to hold a remaining vestige of their special privilege. It was on the wane, of course, and this is one of the exceedingly rare cases where they were able to avoid the last final step and make the last exit in two steps, as it were. Since 1776 it has very seldom happened that suffrage qualifications have differed for any public offices (Porter, "History Suffrage in United States," pp. 82, 83, 84, 85).

Mr. President, I come now to the great—even though small—State of Rhode Island, the last of the Thirteen Original States I shall discuss. After doing so, I hope to conclude my remarks.

Mr. President, from reading the documents and the debates in connection with Rhode Island's ratification of the Federal Constitution, we observe how the State of Rhode Island retained the right to declare who shall vote and who shall not vote. Although it may sound repetitious, yet, Mr. President, if comparison is made, it will be seen that most of the Original Thirteen States had similar requirements in regard to voting. In the early days, as I have pointed out, some of the States would not permit Catholics to vote. Some of the States would not permit Jews to vote. Some of the States would not permit Protestants to vote. From studying the early records, we find that they demonstrate that the States themselves zealously guarded that right; and in the respective constitutions of the Original Thirteen States, the qualifications of voters in the respective States were outlined or defined.

Mr. President, I cannot emphasize too often that except for the fact that the Original Thirteen States retained that right, today we would not have a Federal Constitution, in my humble judgment. I believe I pointed that out very succinctly, last Wednesday, by quoting from the debates at the great Constitutional Convention.

Mr. President, if and when the matter now at issue here comes before the courts, I hope the judges will take the time to read some of the data which some of us have placed in this RECORD, particularly the debates at the Constitutional Convention in Philadelphia and the constitutions of the Thirteen Original States, about which I have been talking for the last 3 or 4 days. If that is done, I am sure the courts will find out for themselves that the Federal Government has no right to define or declare in any way who shall vote and who shall not vote in the various States or what shall be the qualifications of the voters in the States.

Mr. President, Rhode Island had its own unique character in its inception, caused by the fact that:

Rhode Island was first settled in 1636 by Roger Williams and other immigrants who had suffered persecution in Massachusetts, and who established at Providence "a pure democracy, which for the first time guarded jealously the rights of conscience by ignoring any power in the body politic to interfere with those matters that alone concern man and his Maker." (Thorpe, 6, supra, p. 3205, footnote (a).)

The constitution of Rhode Island in 1842 provided:

ARTLCLE II. QUALIFICATIONS OF ELECTORS

SECTION 1. Every male citizen of the United States, of the age of 21 years, who has had his residence and home in this State for 1 year, and in the town or city in which he may claim a right to vote, 6 months next preceding the time of voting, and who is really and truly possessed in his own right of real estate in such town or city of the value of $134 over and above all incumbrances, or which shall rent for $7 per annum over and above any rent reserved or the interest of any incumbrances thereon, being an estate in fee-simple, fee-tail, for the life of any person, or an estate in reversion or remainder, which qualifies no other person to vote, the conveyance of which estate, if by deed, shall have been recorded at least 90 days, shall thereafter have a right to vote in the election of all civil officers and on all questions in all legal town or ward meetings so long as he continues so qualified. And if any person hereinbefore described shall own any such estate within this State out of the town or city in which he resides, he shall have a right to vote in the election of all general officers and members of the general assembly in the town or city in which he shall have had his residence and home for the term of 6 months next preceding the election, upon producing a certificate from the clerk of the town or city in which his estate lies, bearing date within 10 days of the time of his voting, setting forth that such person has a sufficient estate therein to qualify him as a voter; and that the deed, if any, has been recorded 90 days.

SEC. 2. Every male native citizen of the United States, of the age of 21 years, who has had his residence and home in this State 2 years, and in the town or city in which he may offer to vote, 6 months next preceding the time of voting, whose name is registered pursuant to the act calling the convention to frame this constitution, or shall be registered in the office of the clerk of such town or city at least 7 days before the time he shall offer to vote, and before the last day of December in the present year; and who has paid or shall pay a tax or taxes assessed upon his estate within this State, and within a year of the time of voting, to the amount of $1, or who shall voluntarily pay, at least 7 days before the time he shall offer to vote, and before said last day of December, to the clerk or treasurer of the town or city where he resides, the sum of $1 or such sum as with his other taxes shall amount to $1, for the support of public schools therein, and shall make proof of the same, by the certificate of the clerk, treasurer, or collector of any town or city where such payment is made; or who, being so registered, has been enrolled in any military company in this State, and done military service or duty therein, within the present year, pursuant to law, and shall (until other proof is required by law) prove by the certificate of the officer legally commanding the regiment, or chartered, or legally authorized volunteer company in which he may have served or done duty, that he has been equipped and done duty according to law, or by the certificate of the commissioners upon military claims, that he has performed military service, shall have a right to vote in the election of all civil officers, and on all questions in all legally organized town or war meetings, until the end of the first year after the adoption of this constitution, or until the end of the year 1843.

From and after that time, every such citizen who has had the residence herein required, and whose name shall be registered in the town where he resides, on or before the last day of December, in the year next preceding the time of his voting, and who shall show by legal proof, that he has for and within the year next preceding the time he shall offer to vote, paid a tax or taxes assessed against him in any town or city in this State, to the amount of $1, or that he has been enrolled in a military company in this State, been equipped and done duty therein according to law, and at least for 1 day during such year, shall have a right to vote in the election of all civil officers, and on all questions, in all legally organized town or ward meetings: *Provided*, That no person shall at any time be allowed to vote in the election of the city council of the city of Providence, or upon any proposition to impose a tax, or for the expenditure of money in any town or city, unless he shall within the year next preceding have paid a tax assessed upon his property therein, valued at least at $134.

SEC. 3. The assessors of each town or city shall annually assess upon every person whose name shall be registered a tax of $1, or such sum as with his other taxes shall amount to $1, which registry tax shall be paid into the treasury of such town or city, and be applied to the support of public schools therein; but no compulsory process shall issue for the collection of any registry tax; *Provided*, That the registry tax of every person who has performed military duty according to the provisions of the preceding section shall be remitted for the year he shall perform such duty; and the registry tax assessed upon any mariner, for any year while he is at sea, shall, upon his application, be remitted; and no person shall be allowed to vote whose registry tax for either of the 2 years next preceding the time of voting is not paid or remitted as herein provided.

SEC. 4. No person in the military, naval, marine, or any other service of the United States shall be considered as having the required residence by reason of being employed in any garrison, barrack, or military or naval station in this State: and no pauper, lunatic, person non compos mentis, person under guardianship, or member of the Narragansett tribe of Indians, shall be permitted to be registered or to vote. Nor shall any person convicted of bribery, or of any crime deemed infamous at common law, be permitted to exercise that privilege, until he be expressly restored thereto by act of the general assembly.

SEC. 5. Persons residing on lands ceded by this State to the United States shall not be entitled to exercise the privilege of electors.

SEC. 6. The general assembly shall have full power to provide for a registry of voters, to prescribe the manner of conducting the elections, the form of certificates, the nature of the evidence to be required in case of a dispute as to the right of any person to vote, and generally to enact all laws necessary to carry this article into effect, and to prevent abuse, corruption and fraud in voting (6 Thorpe, supra, pp. 3224, 3225, 3226, art. II).

In 1864, article IV of the amendments was added:

Electors in this State who, in time of war, are absent from the State, in the actual military service of the United States, being otherwise qualified, shall have a right to vote in all elections in the State for electors of President and Vice President of the United States, Representatives in Congress and general officers of the State. The general assembly shall have full power to provide by law for carrying this article into effect; and until such provision shall be made by law, every such absent elector on the day of such elections, may deliver a written or printed ballot, with the names of the persons voted for thereon, and his Christian and surname, and his voting residence in the State, written at length on the back thereof, to the officer commanding the regiment or company to which he belongs; and all such ballots, certified by such commanding officer to have been given by the elector whose name is written thereon, and returned by such commanding officer to the secretary of state within the time prescribed by law for counting the votes in such elections, shall be received and counted with the same effect as if given by such elector in open town, ward, or district meeting; and the clerk of each town or city, until otherwise provided by law, shall within 5 days after any such election, transmit to the secretary of state a certified list of the names of all such electors on their respective voting lists (6 Thorpe, supra, pp. 3235 and 3236, art. IV).

This article was superseded in 1930 by article XXI of the articles of amendment:

SEC. 1. The electors of this State, who are absent from the State, being otherwise qualified to vote at the general election held

biennially on the Tuesday next after the first Monday in November, shall have the right to vote in all elections in the State for electors of President and Vice President of the United States, Senators in Congress, Representatives in Congress, general officers of the State, senator and representatives in the general assembly from the respective city, town, or district in which the elector is duly qualified to vote, and for any other officers whose names appear on the State ballot, and also to approve or reject any proposition of amendment to the constitution, or other proposition appearing on the State ballot. The general assembly shall have full power to provide by law for carrying this article into effect and any ballot cast under the provisions of such law shall be received and counted with the same effect as if given by such elector in open town, ward or district meeting. The general assembly may also provide special regulations and manner of voting for those persons who are absent from the State in the actual military service of the United States.

SEC. 2. This amendment shall take in the constitution of the State, the place of article IV of articles of amendment to the constitution, which said article and all other provisions of the constitution, inconsistent herewith are hereby annulled.

On November 2, 1948, Rhode Island ratified article XXIII of the articles of amendment, which annulled article XXI of the articles of amendment. The new constitutional outline of absentee voting requirements includes aged and physically disabled persons among the categories eligible to vote in absentia, and also broadens the class of local offices which may be voted upon by absentee ballot:

ARTICLE OF AMENDMENT, ADOPTED NOVEMBER 2, 1948

ARTICLE XXIII

SEC. 1. The electors of this State who are absent from the State, or who, by reason of old age, physical disability, illness, or for other physical infirmities, are unable to vote in person, being otherwise qualified to vote at the general election held biennially on the Tuesday next after the first Monday in November, shall have the right to vote in all elections in the State for electors of President and Vice President of the United States, U.S. Senators in Congress, Representatives in Congress, general officers of the State, senators and representatives in the general assembly for the respective city, town, or districts, in which the elector is duly qualified to vote, and for any other officers whose names appear on the State ballot and for any city, town, water district officers whose names appear on the respective city or town ballots in the ward or district of the city or town in which the elector is duly qualified to vote, and also to approve or reject any proposition of amendment to the constitution or other propositions appearing on the State, city, or town ballot. The general assembly shall have full power to provide by law for carrying this article into effect and any ballot cast under the provisions of such law shall be received and counted with the same effect as if given by such elector in open town, ward or district meeting.

SEC. 2. This amendment shall take in the constitution of the State the place of article XXI of articles of amendment to the constitution, which said article and all other provisions of the constitution inconsistent herewith are hereby annulled: *Provided, however,* That the provisions of this article shall not be construed to amend or repeal article XXII of the articles of amendment to the constitution (Rhode Island Manual, pp. 81, 82).

This section, in turn, was annulled by article XXXIV of the amendments, adopted February 27, 1958.

In its place was substituted a section proposed at a limited constitutional convention called by the general assembly on December 16, 1957. It was adopted by the convention by a vote of 180 to 2, and then adopted by the people of Rhode Island by a vote of 17,973 to 1,592 on February 27, 1958.

The two sections read as follows:

1. Absentee voting: The general assembly is authorized and empowered to enact legislation prescribing the time, place, manner, and extent of voting by electors of this State, who are absent from the State, or who, by reason of old age, physical disability, illness or other physical infirmities, are unable to vote in person.

2. Existing laws remain in effect: All laws of the State in effect on the date of the adoption hereof relating to the time, place, manner, and extent of voting by the electors of the State referred to in section I hereof shall remain in full force and effect until amended or repealed by the general assembly.

In 1886, article VI of the amendments was approved, conferring upon alien veterans the right to vote:

All soldiers and sailors of foreign birth, citizens of the United States, who served in the Army and Navy of the United States from this State in the late Civil War, and who were honorably discharged from such service, shall have the right to vote on all questions in all legally organized town, district or ward meetings, upon the same conditions and under and subject to the same restrictions as native-born citizens. (Obsolete by article VII of amendments.)

The provisions of article VI of the amendments, as above quoted, were rendered obsolete in 1888 by article VII of the amendments; and these amendments annulled and superseded sections 2 and 3 of article II of the 1842 constitution. Article VII of the amendments was as follows:

SECTION 1. Every male citizen of the United States of the age of 21 years, who has had his residence and home in this State for 2 years, and in the town or city in which he may offer to vote for 6 months next preceding the time of his voting, and whose name shall be registered in the town or city where he resides on or before the last day of December, in the year next preceding the time of his voting, shall have a right to vote (in the election) in the election of all civil officers and on all questions in all legally organized town or ward meetings: *Provided,* That no person shall at any time be allowed to vote in the election of the city council of any city, or upon any proposition to impose a tax or for the expenditure of money in any town or city, unless he shall within the year next preceding have paid a tax assessed upon his property therein, valued at least at $134. (Annulled by article XX of amendments; see article XIX of amendments to U.S. Constitution.)

SEC. 2. The assessors of each town and city shall annually assess upon every person who, if registered, would be qualified to vote a tax of $1, or such sum as with his other taxes shall amount to $1, which tax shall be paid into the treasury of such town or city and be applied to the support of public schools therein: *Provided,* That such tax assessed upon any person who has performed military duty shall be remitted for the year he shall perform such duty; and said tax assessed upon any mariner for any year while he is at sea, or upon any person who by reason of extreme poverty is unable to pay said tax, shall, upon application of such mariner or person, be remitted. The general assembly shall have power to provide by law for the collection and remission of said tax.

Poll tax on female voters: This constitutional section does not authorize assessment of a poll tax upon female voters who, if registered, are entitled to vote for electors of President and Vice President of the United States. In re Opinion to the Governor, 42, R. I. 558, 109 Atl. 84.

SEC. 3. This amendment shall take in the constitution of the state, the place of sections 2 and 3 of articles II, of the Qualification of Electors, which said sections are hereby annulled.

Effect of section: By the provisions of this section, section 1 of this article becomes a part of article II of the constitution (*King* v. *Board of Canvassers of City of Providence* (42 R.I. 41, 105 Atl. 372)).

Article VIII of the amendments, adopted in 1889, annulled article V of the amendments, relating to soldiers and sailors of foreign birth.

Article XX of the amendments, ratified in 1928, superseded section 1 of article VII of the articles of amendments, adopted in 1888, to which I have previously referred. Section 1 of the 1888 amendment, Senators will recall, took the place of section 2 of article II of the 1842 constitution. Article XX of the articles of amendment reads as follows:

SECTION 1. Every citizen of the United States of the age of 21 years, who has had his residence and home in this State for 2 years, and in the town or city in which he may offer to vote 6 months next preceding the time of his voting, and whose name shall be registered in the town or city where he resides on or before the last day of June in the registration period next preceding the time of his voting shall have a right to vote in the election of all civil officers and on all questions in all legally organized town, ward, or district meetings: *Provided,* That no person shall at any time be allowed to vote upon any proposition to impose a tax or for the expenditure of money in any town, as distinguished from a city, unless he shall be qualified under section 1 of article II of this constitution, or unless he shall within the year next preceding have paid a tax assessed upon his personal property in said town, of the value of at least $134; *Provided,* That if the general assembly shall at any time vest the authority to impose taxes and for the expenditure of money in any town or city in budget commission, such commission shall consist of not less than 5 nor more than 15 electors, of such qualifications and with such powers as the general assembly may prescribe, to be elected by the qualified electors of such town or city: *Provided,* That no such budget commission shall be created for a town, as distinguished from a city, unless the electors thereof in a financial town meeting regularly called, due notice of such proposition appearing in the call for such meeting, shall by a majority vote of those present and voting, vote to submit such proposition to the electors of such town qualified to vote upon any proposition to impose a tax or for the expenditure of money, at the next regular election of town officers, and unless such electors at such election shall by a majority vote of those present and voting approve such proposition: *Provided,* That any elector, being otherwise qualified, whose name is on the real estate or the personal property voting list of any town or city on the date of the adoption of this article of amendment by the electors of the State, and any elector, being otherwise qualified, whose name shall

thereafter be placed upon such list as a real estate or personal property voter, shall have a right to vote in the election of all civil officers and on all questions in all legally organized town, ward, or district meetings, and to have his name retained on said list without further registration, so long as he continues so qualified; and in the event that an elector whose name is on the real estate voting list of any town or city at the end of any registration period for voters shall thereafter during the next succeeding registration period for voters transfer all his real estate in said town or city as shown by record, his name shall forthwith be transferred to the list of registry voters, unless qualified as a personal voter, and such elector shall be entitled to vote as a registry voter during the remainder of the then current registration period for voters; and in the event that an elector whose name is on the personal property voting list of any town or city at the end of any registration period for voters thereafter during the next succeeding registration period for voters fails to pay the personal property tax assessed against him, his name shall be transferred to the list of registry voters, and such elector shall be entitled to vote as a registry voter during the remainder of the then current registration period for voters: *And provided,* That the registration period for voters shall include the 2 years ending June 30 next preceding the election of general officers of the State.

SEC. 2. This amendment shall take in the constitution of the State, the place of section 1 of article VII of the articles of amendment, adopted April 1888, which said section and all other provisions of the constitution inconsistent herewith are hereby annulled.

In 1950, article XXIV of the articles of amendment replaced section 4 of article II of the 1842 constitution:

ARTICLE OF AMENDMENT, ADOPTED NOVEMBER 7, 1950

ARTICLE XXIV

SECTION 1. Section 4 of article II of the constitution of the State is hereby amended to read as follows:

"SEC. 4. No person in the military, naval, marine, or any other service of the United States shall be considered as having the required residence by reason of being employed in any garrison, barrack, or military or naval station in this State: and no pauper, lunatic, person non compos mentis, or person under guardianship shall be permitted to be registered or to vote. Nor shall any person convicted of bribery, or of any crime deemed infamous at common law, be permitted to exercise that privilege, until he be expressly restored thereto by act of the general assembly."

SEC. 2. This amendment shall take in the constitution of the State the place of section 4 of article II, "of the qualifications of electors," which said section and all other provisions of the constitution inconsistent herewith are hereby annulled (Rhode Island Manual, p. 82).

At the same time—that is, in 1950—amendment XXV of the articles of amendment was ratified, by which the qualifications of electors were revised:

ARTICLE OF AMENDMENT, ADOPTED NOVEMBER 7, 1950

ARTICLE XXV

SECTION 1. Every citizen of the United States, at the age of 21 years or over, who has had his residence and home in this State for 1 year and in the town or city in which he may offer to vote 6 months next preceding the time of voting, and whose name shall be registered in accordance with this article and the statutes adopted under its authority in the town or city where he resides at least 60 days next preceding the time of his voting shall, except as provided in section 2 hereof, have a right to vote in the election of all civil officers and on all questions in all legally organized town, ward, or district meetings so long as he continues so qualified. A person who has so registered shall not be required to register again so long as he continues to have his residence and home in said town or city and continues to be otherwise qualified: *Provided, however,* That if a registered voter has not voted at least once at an election, primary, caucus, or meeting within the 5 preceding calendar years his registration shall be canceled, except that the registration of no person shall be so canceled during his service in the Armed Forces of the United States. A voter whose registration has been so canceled shall not thereafter be eligible to vote unless he shall again register in accordance with this article and the statutes adopted under its authority.

SEC. 2. No person shall, except as provided in section 3 hereof, at any time be allowed to vote upon any proposition to impose a tax or for the expenditure of money in any town, as distinguished from a city, unless he shall either (1) be really and truly possessed in his own right of real estate in such town of the value of $134 over and above all encumbrances, or which shall rent for $7 per annum over and above any rent reserved or the interest of any encumbrances thereon, being an estate in fee simple, fee tail, for the life of any person, or an estate in reversion or remainder, which qualifies no other person to vote, the conveyance of which estate, if by deed, shall have been recorded at least 90 days prior to the time of voting or (2) shall within the year next preceding have paid a tax assessed upon his personal property in said town of the value of at least $134.

SEC. 3. If the general assembly shall at any time vest the authority to impose taxes and for the expenditure of money in any town or city in a budget commission, such commission shall consist of not less than 5 nor more than 15 electors, of such qualifications and with such powers as the general assembly may prescribe, to be elected by the qualified electors of such town or city. No such budget commission shall be created for a town, as distinguished from a city, unless the electors thereof in a financial town meeting regularly called, due notice of such proposition appearing in the call for such meeting, shall by a majority vote of those present and voting, vote to submit such proposition to the electors of such town qualified to vote upon any proposition to impose a tax or for the expenditure of money, at the next regular election of town officers, and unless such electors at such election shall by a majority vote of those present and voting approve such proposition.

SEC. 4. The general assembly shall provide by law for a uniform registration of voters who possess the qualifications prescribed in this article and shall include in such provisions suitable methods of identification of such voters, by signature or otherwise.

SEC. 5. Until the general assembly shall otherwise prescribe: Whenever any person eligible to vote shall register to vote in any town or city he shall be required to sign his name on three separate and distinct cards, or in three separate and distinct books or on one or more cards and in one or more books making a total of three cards or books in all, and at the time he shall so register he shall be given by the official or clerk so registering him an identification card upon which such qualified elector shall sign his name in the presence of such official or clerk. The general assembly may provide by law that in case any person shall be unable to sign his name because of physical incapacity or otherwise he may be exempted from the foregoing provisions in regard to signing his name and the general assembly shall provide that in such cases such person shall comply with other requirements which shall assist in providing identification of such voter. One of said registration cards or books shall at all times be retained in the custody of the town or city official or board in whom or in which is vested authority to register voters, one of said registration cards or books shall be sent by said town or city official or board to the State official or board in whom or in which is vested authority to supervise elections throughout the State and one of such registration cards or books shall be sent by said town or city official or board to the polling place of meeting at which any votes are to be taken or election, primary or caucus is to be held and shall be delivered by said official or board to the moderator of said polling place or meeting and shall at all times during the conduct of such election, primary, caucus, or meeting be kept in the custody of said moderator, and following the conclusion of such election, primary, caucus, or meeting shall be redelivered by the moderator to said town or city official or board.

SEC. 6. In all elections, primaries, caucuses, or meetings held before the 1st day of July occurring next after 6 months following the adoption of this amendment, the qualifications to vote, including the registration qualifications, requirements, and periods, shall be the same as before the adoption of this amendment. No person shall, however, be qualified to vote in any election, primary, caucus, or meeting held on or after said 1st day of July, unless he shall be registered under the authority of this article and all voters, whether they have theretofore been real estate, personal property, or registry voters shall be required to register under the authority of this article in order to continue to be qualified to vote after said date.

SEC. 7. This amendment shall take in the constitution of the State the place of section I of article II and of articles XVIII and XX of the amendments to said constitution, which said section and articles and all other provisions of the constitution inconsistent herewith are hereby annulled: *Provided, however,* That nothing contained in this article shall in any way be deemed to modify or affect the provisions of article XXII of the amendments to the constitution except that the reference therein to article XX of the amendments to the constitution shall be deemed to refer to this article. (Rhode Island Manual, pp. 83, 84, 85.)

Also on November 7, 1950, Rhode Island ratified article XXVI of the articles of amendment which replaced article XX of the articles of amendment. Article XX, Senators will recall, had replaced section 1 of article VII of the articles of amendment. Article XXVI of the articles of amendment read as follows:

ARTICLE OF AMENDMENT, ADOPTED NOVEMBER 7, 1950

ARTICLE XXVI

SECTION 1. Every citizen of the United States of the age of 21 years, who has had his residence and home in this State for 2 years, and in the town or city in which he may offer to vote 6 months next preceding the time of his voting, and whose name shall be registered in the town or city where he resides on or before the last day of June in the registration period next preceding the time of his voting shall have a right to vote in the election of all civil officers and on all questions in all legally organized town, ward, or district meetings: *Provided,* That no person shall at any time be allowed to vote upon any proposition to impose a tax or for the expenditure of money in any town, as distinguished from a city, unless he shall be qualified under section 1 or article II of this constitution, or unless he shall within the year next preceding have paid a tax assessed upon

his personal property in said town, of the value of at least $134, or unless he shall be exempted from the payment of a tax upon personal property of the value of at least $134 owned by him, by reason of his having served in the Armed Forces of the United States of America: *Provided*, That if the general assembly shall at any time vest the authority to impose taxs and for the expenditure of money in any town or city in a budget commission, such commission shall consist of not less than 5 nor more than 15 electors, of such qualifications and with such powers as the general assembly may prescribe, to be elected by the qualified electors of such town or city: *Provided*, That no such budget commission shall be created for a town, as distinguished from a city, unless the electors thereof in a financial town meeting regularly called, due notice of such proposition appearing in the call for such meeting, shall by a majority vote of those present and voting, vote to submit such proposition to the electors of such town qualified to vote upon any proposition to impose a tax or for the expenditure of money, at the next regular election of town officers, and unless such electors at such election shall by a majority vote of those present and voting approve such proposition: *Provided*, That any elector, being otherwise qualified, whose name is on the real estate or the personal property voting list of any town or city on the date of the adoption of this article of amendment by the electors of the State, and any elector, being otherwise qualified, whose name shall thereafter be placed upon such list as a real estate or personal property voter, shall have a right to vote in the election of all civil officers and on all questions in all legally organized town, ward, or district meetings, and to have his name retained on said list without further registration, so long as he continues so qualified; and in the event that an elector whose name is on the real estate voting list of any town or city at the end of any registration period for voters shall thereafter during the next succeeding registration period for voters transfer all his real estate in said town or city, as shown by record, his name shall forthwith be transferred to the list of registry voters, unless qualified as a personal voter, and such elector shall be entitled to vote as a registry voter during the remainder of the then current registration period for voters; and in the event that an elector whose name is on the personal property voting list of any town or city at the end of any registration period for voters thereafter during the next succeeding registration period for voters fails to pay the personal property tax assessed against him, his name shall be transferred to the list of registry voters, and such elector shall be entitled to vote as a registry voter during the remainder of the then current registration period for voters: *And provided*, That the registration period for voters shall include the 2 years ending June 30 next preceding the election of general officers of the State.

SEC. 2. This amendment shall take in the constitution of the State, the place of section 1 of article XX of the articles of amendment, adopted November 6, 1928, which said section and all other provisions of the constitution inconsistent herewith are hereby annulled (Rhode Island Manual, pp. 86, 87).

In 1951, the qualifications of Rhode Island voters were again revised, with the adoption on June 28 of articles XXVII, XXVIII, and XXIX of the articles of amendment:

ARTICLE OF AMENDMENT, ADOPTED JUNE 28, 1951

ARTICLE XXVII

SECTION 1. Section 2 of article VII of the articles of amendment to the constitution of this date is hereby annulled.

SEC. 2. Section 3 of article II of the constitution of this State shall remain annulled.

SEC. 3. All other provisions of the constitution inconsistent herewith are hereby annulled.

SEC. 4. This amendment shall take effect whenever a majority of electors voting at a special election, to which this amendment is submitted after adoption by the constitutional convention, shall approve the same.

ARTICLE XXVIII

SECTION 1. It is the intention of this article to grant and confirm to the people of every city and town in this State the right of self-government in all local matters.

SEC. 2. Every city and town shall have the power at any time to adopt a charter, amend its charter, enact and amend local laws relating to its property, affairs, and government not inconsistent with this constitution and laws enacted by the general assembly in conformity with the powers reserved to the general assembly.

SEC. 3. Notwithstanding anything contained in this article, every city and town shall have a legislative body composed of one or two branches elected by vote of its qualified electors.

SEC. 4. The general assembly shall have the power to act in relation to the property, affairs, and government of any city or town by general laws which shall apply alike to all cities and towns, but which shall not affect the form of government of any city or town. The general assembly shall also have the power to act in relation to the property, affairs, and government of a particular city or town provided that such legislative action shall become effective only upon approval by a majority of the qualified electors of the said city or town voting at a general or special election, except that in the case of acts involving the imposition of a tax or the expenditure of money by a town the same shall provide for the submission thereof to those electors in said town qualified to vote upon a proposition to impose a tax or for the expenditure of money.

SEC. 5. Nothing contained in this article shall be deemed to grant to any city or town the power to levy, assess, and collect taxes or to borrow money, except as authorized by the general assembly.

SEC. 6. Every city and town shall have the power to adopt a charter in the following manner: Whenever a petition for the adoption of a charter signed by 15 percent, of the qualified electors of a city, or in a town by 15 percent, but not less than 100 in number, of those persons qualified to vote on any proposition to impose a tax or for the expenditure of money shall be filed with the legislative body of any city or town the same shall be referred forthwith to the canvassing authority which shall within 10 days after its receipt determine the sufficiency thereof and certify the results to the legislative body of said city or town. Within 60 days thereafter the legislative body of a city shall submit to its qualified electors and the legislative body of a town shall submit to the electors of said town qualified to vote upon a proposition to impose a tax or for the expenditure of money the following question: "Shall a commission be appointed to frame a charter?" and the legislative body of any city or town shall provide by ordinance or resolution a method for the nomination and election of a charter commission to frame a charter consisting in a city of nine qualified electors and in a town of nine electors of said town qualified to vote upon a proposition to impose a tax or for the expenditure of money who shall be elected at large without party or political designation and who shall be listed alphabetically on the ballot used for said election. Such ordinance or resolution shall provide for the submission of the question and the election of the charter commission at the same time. Upon approval of the question submitted the nine candidates who individually receive the greater numbers of votes shall be declared elected and shall constitute the charter commission.

SEC. 7. Within 1 year from the date of the election of the charter commission the charter framed by the commission shall be submitted to the legislative body of the city or town which body shall provide for publication of said charter and shall provide for the submission of said charter to the electors of a city or town qualified to vote for general State officers at the general election next succeeding 30 days from the date of the submission of the charter by the charter commission. If said charter is approved by a majority of said electors voting thereon, it shall become effective upon the date fixed therein.

SEC. 8. The legislative body of any city or town may propose amendments to a charter which amendments shall be submitted for approval in the same manner as provided in this article for the adoption of a charter except that the same may be submited at a special election: *And provided further*, That in the case of a town, amendments concerning a proposition to impose a tax or for the expenditure of money, shall be submitted at a special or regular financial town meeting.

SEC. 9. Whenever the legislative body of any city or town consists of more than one branch, a petition for the adoption of a charter as provided in this article may be filed with either branch of said legislative body.

SEC. 10. Duplicate certificates shall be made setting forth the charter adopted and any amendments approved and the same shall be signed by a majority of the canvassing authority; one of such certified copies shall be deposited in the office of the secretary of state and the other after having been recorded in the records of the city or town shall be deposited among the archives of the said city or town and all courts shall take judicial notice thereof.

SEC. 11. The judicial powers of the State shall not be diminished by the provisions of this article.

SEC. 12. This amendment shall take effect whenever a majority of electors voting at a special election, to which this amendment is submitted after adoption by the Constitutional Convention, shall approve the same.

ARTICLE XXIX

SECTION 1. Every citizen of the United States, of the age of 21 years or over, who has had his residence and home in this State for 1 year and in the town or city in which he may offer to vote 6 months next preceding the time of voting, and whose name shall be registered in accordance with this article and the statutes adopted under its authority in the town or city where he resides at least 60 days next preceding the time of his voting shall, except as provided in section 2 hereof, have a right to vote in the election of all civil officers and on all questions in all legally organized town, ward, or district meetings so long as he continues so qualified. A person who has so registered shall not be required to register again so long as he continues to have his residence and home in said town or city and continues to be otherwise qualified: *Provided, however*, That if a registered voter does not vote at least once at an election, primary, or caucus within the 5 calendar years succeeeding his registration, his said registration shall be canceled, except that the registration of no person shall be so canceled during his service in the Armed Forces of the United States and during 2 years thereafter. A voter whose registration has been so canceled shall not thereafter be eligible to vote unless he shall again register in accordance with this article and the statutes adopted under its authority.

SEC. 2. No person shall, except as provided in section 3 hereof, at any time be allowed

to vote upon any proposition to impose a tax or for the expenditure of money in any town, as distinguished from a city, unless he shall be qualified under the provisions of section 1 hereof and shall either (1) be really and truly possessed in his own right of real estate in such town of the value of $134 over and above all incumbrances, or which shall rent for $7 per annum over and above any rent reserved or the interest of any incumbrances thereon, being an estate in fee-simple, fee-tail, for the life of any person, or an estate in reversion or remainder, which qualifies no other person to vote, the conveyance of which estate, if by deed, shall have been recorded at least 90 days prior to the time of voting or (2) shall within the year next preceding have paid a tax assessed upon his personal property in said town of the value of at least $134.

SEC. 3. If the general assembly shall at any time vest the authority to impose taxes and for the expenditure of money in any town or city in a budget commission, such commission shall consist of not less than 5 nor more than 15 electors, of such qualifications and with such powers as the general assembly may prescribe, to be elected by the qualified electors of such town or city. No such budget commission shall be created for a town, as distinguished from a city, unless the electors thereof in a financial town meeting regularly called, due notice of such proposition appearing in the call for such meeting, shall by a majority vote of those present and voting, vote to submit such proposition to the electors of such town qualified to vote upon any proposition to impose a tax or for the expenditure of money, at the next regular election of town officers, and unless such electors at such election shall by a majority vote of those present and voting approve such proposition. Budget commissions heretofore created pursuant to the provisions of section 1 of article XX of the amendments to the constitution shall be deemed to have been created pursuant to the provisions of this section.

SEC. 4. The general assembly shall provide by law for a uniform registration of voters who possess the qualifications prescribed by this article. In each city and town the registration, canvassing of the rights and correcting the list of voters shall be administered by a canvassing authority. Beginning in January of each year in which a general election is to be held a census of registered voters at their addresses appearing in the registration records shall be jointly made in each voting district of each city and town by two persons appointed by said authority, one of whom shall represent one of the two political parties, and the other of whom shall represent the other of the two political parties whose candidates for Governor shall have received the larger numbers of votes in the general election then next preceding. Said persons, having conducted the census, shall deliver their report of said census to the canvassing authority. The canvassing authority shall forthwith notify every person reported as not residing at the address on said records of voters to appear before said canvassing authority within a certain time thereafter to show cause, if any, why his name should not be stricken from said records of voters. If such person so notified fails to appear as aforesaid, or appearing fails to show such cause, the canvassing authority shall strike the name of such person from said records of voters.

The warden or moderator, as the case may be, or the clerk, supervisor or party watcher, may challenge, in the polling place, the identity of any person who offers to vote under a name appearing upon the voting list. The person so challenged may thereupon present evidence of his identity, and if such evidence is satisfactory to the warden or moderator, as the case may be, and to the clerk, he shall be permitted to vote. If he fails to present such evidence, or if the evidence presented is not satisfactory to the warden or moderator, as the case may be, and to the clerk, the person who offers to vote and whose identity is challenged shall be required to make an affidavit under penalty setting forth that he is the same person whose name appears upon the list and that the name under which he offers to vote is his own name. Upon executing said affidavit, he shall be permitted to vote.

SEC. 5. Until the first day of July 1952 the qualifications and right to vote shall be governed by the laws of this State as they existed on November 6, 1950.

No person shall, however, be qualified to vote in any election, primary, caucus, or meeting held on or after said 1st day of July 1952 unless he shall be registered under the authority of this article and all voters, whether they have theretofore been real estate, personal property, or registry voters shall be required to register under the authority of this article in order to continue to be qualified to vote after said date.

SEC. 6. Upon the approval of this article of amendment by the people, and upon the enactment of legislation pursuant to section 4 hereof, the proper officers are hereby authorized, empowered and directed to accept registrations of voters pursuant to the provisions hereof, which registrations shall become effective on the 1st day of July 1952.

SEC. 7. The general assembly shall have full power to prescribe the manner of conducting the elections, the form of certificates, the nature of the evidence to be required in case of a dispute as to the right of any person to vote, and generally to enact all laws necessary to carry this article into effect, and to prevent abuse, corruption, and fraud in voting.

SEC. 8. This amendment shall take in the constitution of the State the places of sections 1, 2, 3, and 6 of article II; and in the articles of amendment to said constitution, of article VII, section 11 of article XI and of articles XVIII and XX, and those two certain articles of amendment providing respectively for permanent registration and for qualification of electors approved the 7th day of November 1950 upon submission pursuant to chapters 2294 and 2305 of the Public Laws, of 1949, which said sections and articles and all other provisions of the constitution inconsistent herewith are hereby annulled: *Provided, however,* That nothing contained in this article shall in any way be deemed to modify or affect the provisions of article XXII of the amendments to the constitution shall be deemed to refer to this article.

SEC. 9. This amendment shall take effect whenever a majority of electors voting at a special election, to which this amendment is submitted after adoption by the constitutional Convention, shall approve the same (Rhode Island Manual, pp. 88, 89, 90, 91, 92, 93, 94).

A portion of section 4 of article XXIX dealing with uniform registration of voters was deleted and new sections dealing with the canvassing and list of electors and the effective date of the amendment were added.

The provisions of article XXXV of the amendments, adopted on February 27, 1958, are as follows:

Annulment of portion of 29th amendment: That portion of the 4th section of the 29th article of amendment to the constitution of the State reading as follows: "Beginning in January of each year in which a general election is to be held a census of registered voters at their addresses appearing in the registration records shall be jointly made in each voting district of each city and town by two persons appointed by said authority, one of whom shall represent one of the two political parties, and the other of whom shall represent the other of the two political parties whose candidates for Governor shall have received the larger number of votes in the general election then next preceding. Said persons, having conducted the census, shall deliver their report of said census to the canvassing authority. The canvassing authority shall forthwith notify every person reported as not residing at the address on said records of voters to appear before said canvassing authority within a certain time thereafter to show cause, if any, why his name should not be stricken from said records of voters. If such person so notified fails to appear as aforesaid, or appearing fails to show such cause, the canvassing authority shall strike the name of such person from said records of voters," is hereby annulled.

2. Canvassing and lists of electors: The general assembly is authorized and empowered to provide by law for a method of canvassing the lists of qualified electors.

3. Effective date: If a majority of electors voting at a special election, to which this amendment is submitted after adoption by the constitutional convention, shall approve the same this amendment shall become effective on December 31, 1958, unless the general assembly prior thereto shall enact provisions for a method of canvassing said lists in which case this amendment shall take effect upon such enactment.

Article XXX of the articles of amendment, adopted June 28, 1951, permits specified classes of persons exempt from taxation to vote upon proposals imposing taxes for expenditures in a town, as distinguished from a city:

ARTICLE XXX

SECTION 1. For the purpose of determining the qualification of persons to vote upon any proposition to impose a tax or for the expenditure of money in a town, as distinguished from a city, exemption from taxation granted to any person by reason of his or her having served in the Armed Forces of the United States of America, or by reason of being the unremarried widow of such person, or by reason of being the parent of such person, which such person shall have lost his or her life as a casualty in any war in which the United States of America shall have been engaged, shall be considered payment in the amount exempted.

SEC. 2. This amendment shall take effect whenever a majority of electors voting at a special election, to which this amendment is submitted after adoption by the constitutional convention, shall approve the same (Rhode Island Manual, pp. 94, 95).

Rhode Island's property qualifications were strict. They died hard. Porter says:

In Rhode Island the demand for abolition of property qualifications for suffrage ultimately led to a small-sized revolution. This State has been mentioned several times as being particularly well fortified against the progressive movements of the day. But it seems that the longer the conservatives succeeded in staving off the day of reckoning the harder they were destined to fall. Only a complete surrender to the popular demands saved bloodshed, and if the people of Rhode Island did have to wait until 1843 to get the franchise without impediments, it is worth noting that the step from a real estate to no kind of property qualifications was made in about as quick time as it took to write it down. There was no dillydallying through the various stages of personal-property alternatives. The disorder resulting in this sudden change is known to history as the Dorr Rebellion of 1841.

Rhode Island had never provided herself with modern constitution such as the other States possessed. Rhode Island always

seemed to take pride in being eccentric, and it pleased her public men to say that their State was operating satisfactorily under the ancient charter granted by Charles II in 1663. It seems that this antiquity was supposed to lend a certain prestige to the State which the 19th century generation of Democrats failed to appreciate. The charter provided a property in real estate qualification for the suffrage. It did not excite much opposition until the Jeffersonian movement was at its height. For a time the Republicans or Antifederalists were in power, and steps were taken looking toward a cutting down of the suffrage qualification. Had those who worked for such a move been successful, in all probability a taxpaying alternative would have been provided and Rhode Island would have illustrated the same gradual tendency that was observable in other States. But the remanent of Federalists got back in power before the step was accomplished, and nothing was done. This happened in 1811.

Rhode Island naturally became a manufacturing State and thousands of workers flocked into the cities. They formed a malcontent group that was continually grumbling against repression; but the property interests were firmly intrenched back of their hoary charter, and the democratic element could not pry its way into the "closed corporation." Suffrage was being extended in all the States surrounding them, as has been seen. And there was no lack of agitation in Rhode Island either. Scarcely 10 years elapsed from the time of the former effort when in the early twenties a proposition for a new constitution was put before the electorate and failed of adoption. This was quite to be expected, for those who exercised the franchise were satisfied, and the malcontent group was not able yet to awe them. The governing class here was particularly arrogant and supercilious.

In 1829 bold demands were made upon the assembly to make some move toward establishing a more democratic government. But these demands only provoked the most amazing declarations against democratic principles. One would have thought that this assembly had never heard of the Declaration of Independence of the United States of America, and that King Charles had graciously blessed them with his charter, perhaps the year before. Democracy was roundly denounced and the freehold qualification stoutly supported.

It was about this time that one Thomas Dorr appeared upon the scene. He was a man of education and good family and seemed ready to give his entire energy to the cause of broader suffrage. He assumed the leadership of suffrage advocates and, in May 1833, organized a party for the purpose of carrying on a systematic propaganda for a taxpaying suffrage clause. This is significant. Dorr and his followers did not want full suffrage. What they wanted at this time was taxpaying qualification only. The party consisted of mechanics and workingmen for the most part, that is, the best of these, the sort who paid some taxes but did not own real estate. They held regular meetings in the townhouse at Providence and discussed the suffrage question. The occasions were not without picturesque interest, for the speakers and prominent leaders, wishing to emphasize the plebeian character of the organization, always appeared in rough clothing and assumed rude manners. They wrote messages to State and National dignitaries and would sign their names: "John Jones, carpenter," "William Smith, shoemaker," "George Clark, blacksmith," etc. They were as proud of being plebes as the aristocrats were of being proteges of the beloved King Charles.

These activities resulted in a constitutional convention being called by the assembly in 1834. But delegates were to have no pay, which shut out the poor electorate while the legitimate convention was having a recess. It was approved by an overwhelming majority at the polls. This constitution embraced a much more liberal program than had at first been intended. Every white male citizen of the United States was to have the franchise after a residence of 1 year in the State and 6 months in the town.

The legitimate convention hastened to reassemble and promptly drew up a constitution, known as the landholder's constitution, which was surprisingly liberal. It was provided that every white male native citizen of the United States could vote if he possessed $134 worth of property and had lived in the State 1 year. If he had lived in the State 2 years the property requirement was not to apply. Foreigners must have lived in the State 3 years after naturalization and in any event satisfy the property requirement. This was certainly enough to have caused the end of the revolution. There is no doubt at all that the extra year of residence would soon have been taken off, and the disabilities against foreigners ought not to have offended the original suffrage leaders, for they favored such measures themselves. But Dorr and his crowd were angry. They did not want anybody to spoil their revolution and, as a result of their agitation, the landholders' constitution was defeated on March 1, 1842. The suffrage leaders had refused to accept the equivalent of their own program when it came through a legitimate channel.

Dorr now declared that the people's constitution was legally in force and proposed to set up a government under that constitution. Of course such a proceeding was absolutely illegal, but a government was organized nevertheless. The legitimate government was very slow to oppose any of Dorr's activities. He had been elected Governor under the people's constitution and pretended to act as Governor. On May 18 he undertook to seize the arsenal as a first step in his warlike program of ousting the legitimate government and establishing his own. He had a goodly following and marched up to the arsenal boldly enough. He ordered the defenders to surrender, which they refused to do. He had brought an old cannon with him and now ordered the men to shoot it. But, as has been well said, "The men who followed Mr. Dorr to the field, it appeared, had not gone there to fight, but to witness the fulfillment of his prediction that the arsenal would be surrendered without firing a gun." He tried to fire the cannon himself, but it would not go off. The attack was then given up for the time being. The government treated the affair with great indulgence. Dorr was permitted to escape from the State, but a month later he returned and issued various proclamations as Governor of Rhode Island, calling the people to arms. The legitimate assembly now prepared in earnest to put an end to his nonsense. On June 25 the city was under martial law and a considerable force was under arms. They were well organized and proceeded to surround Dorr and his force.

On the evening of the 27th Dorr unexpectedly fled, deserting his followers, and leaving a note saying that evidently those who voted for the people's constitution were not willing to fight for it. He advised his followers to disperse. This was the end of the Dorr Rebellion. Only one man had been killed in the whole affray, and that happened in a disorderly mob. Dorr was later captured, tried, sentenced to life imprisonment, and the next year set at liberty by the legislature upon which he had made war.

In the meantime a constitutional convention had been called, the delegates to which were to be elected by native males who had lived in the State 3 years. This provision was noticeable for not discriminating against Negroes. It is quite evident that at last the assembly had come to a point where it was willing to go to almost any limits to satisfy the popular clamor. The Dorr Rebellion is a landmark. It was by far the biggest, most dramatic, and most determined attack upon property qualifications that had ever occurred, and it was practically the last struggle that was necessary to break the hold of property qualifications for good. The only incident in the history of suffrage in the United States that can eclipse this in importance is the passage of the 14th amendment.

The Dorr Rebellion had really assumed national significance and was supported by Democrats all over the United States. The President had been asked to support the legitimate government with Federal troops, but public sentiment restrained him until the last moment. There is no doubt that the movement had the full, whole-hearted sympathy of the entire Nation. If Dorr had only accepted the advances of the legitimate government in Rhode Island and had not clung to his foolish, illegal project after the real aim had been accomplished, the incident would not suffer the opprobrium with which it must now be stigmatized. The rebellion had collapsed for want of a real issue, but the leaders were too selfish to acknowledge the fact.

The modern constitution which was the ultimate outcome of this trouble was not put in force until 1843, and it embodied some unusual alternatives. Native citizens of the United States who had paid a tax of not less than $1 or had done military service could vote after satisfying a 2-year-residence requirement. If a man owned $134 worth of property, or property yielding $7 annual income, he could vote after living in the State 1 year. The taxpaying requirement amounted to nothing but a registry tax of $1, but to the conservative element it was only a slight measure of consolation. It is to be noted that naturalized citizens could not escape the property test and that there was no discrimination against Negroes. This constitution was not as liberal as the so-called landholder's constitution that had been repudiated by the suffrage advocates, but they were not disturbed over the matter. A majority of the population was quite ready to put disabilities upon the foreigner, and the $1 tax was not particularly offensive.

Indians were excluded from the suffrage, as were also sailors, soldiers, the insane, and paupers; infamous crimes, bribery in particular, were to be cause for exclusion. On the whole this constitution had a very comprehensive suffrage clause (Porter, "History of Suffrage in the United States," p. 93).

As I have pointed out, all of the original States zealously guarded the right to spell out and to fix, in their own constitutions and their own statutes, the qualifications of voters. That right was maintained and exercised not only by the Original Thirteen States, but all States admitted to our Union since the adoption of our Constitution.

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

Mr. ELLENDER. I yield to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. ELLENDER. I yield for a question.

The PRESIDING OFFICER. The Chair is advised that the Senator from Illinois has control of the floor.

Mr. DIRKSEN. Mr. President, before I yield to the Senator from Ohio, and with the understanding that I do not lose my right to the floor, I first want to thank the distinguished Senator from

Louisiana not only for his constructive contribution to the debate on the issue which has engaged our attention for the last 2 months, but for the fine forbearance he has shown. I am deeply grateful to him.

Mr. President, first, I yield 1½ minutes to the distinguished Senator from Wisconsin, with the understanding that I do not lose the floor.

THE DOUGLAS TRUTH IN CREDIT BILL WILL HELP BEAT THE AUTO FINANCE KICKBACK RACKET

Mr. PROXMIRE. Mr. President, yesterday, Mr. Herbert E. Cheever, vice president of the First National Bank of Brookings, S. Dak., made a remarkable statement before a Senate Banking and Currency Subcommittee supporting the Douglas truth in credit bill.

Mr. Cheever, who represents the dominant bank in Brookings, argued eloquently that banking and credit constitute a public trust. He said that his bank has been following the policy of telling its borrowers exactly what their total finance charges amount to, and also providing them with the annual interest rate on the average diminishing balance of their loans.

Of course, Mr. President, this is exactly what the Douglas bill requires.

In the course of his statement, this successful banker made this shocking observation with regard to automobile financing kickbacks—the finance equivalent for payola—by finance companies to dealers for sending them the financed deal:

> In my judgment this situation is getting completely out of control. Only a small part of the amounts credited to a dealer are a legitimate reserve. The balance represents how much the dealer can get for selling the paper. The situation has deteriorated so far that today if a dealer merely sends a customer to a financial institution, and they make a direct loan, that dealer is given a substantial check for sending someone a customer. A perfectly normal payoff on that type of a transaction is approximately 20 percent of the finance fee which again is all added to the cost of the credit to the consumer.

Mr. President, under my questioning in committee, Mr. Cheever said he felt that this practice was standard and widespread—not simply confined to a few chiselers and racketeers, but the regular way business is done.

Here, Mr. President, is a telling argument for the Douglas truth in credit bill, and I ask unanimous consent that Mr. Cheever's statement be printed in the RECORD at this point.

Also, Mr. President, the Wisconsin Home Economics Association has just passed a resolution supporting the truth in credit bill. I ask unanimous consent that the resolution adopted by this responsible and expert group be printed in the RECORD at this point, together with a letter from Chairman Louise A. Young of the family economics-home management section of the Wisconsin Home Economics Association, forwarding the resolution.

There being no objection, the statement, resolution, and letter, were ordered to be printed in the RECORD, as follows:

STATEMENT OF HERBERT E. CHEEVER, VICE PRESIDENT, FIRST NATIONAL BANK, BROOKINGS, S. DAK., BEFORE THE SUBCOMMITTEE ON PRODUCTION AND STABILIZATION OF THE SENATE COMMITTEE ON BANKING AND CURRENCY, THURSDAY, APRIL 7, 1960, ON S. 2755

I have been associated with the First National Bank in Brookings, of Brookings, S. Dak., for a period of 22 years, and for many years I have been in charge of the real estate and installment loan division of the bank.

The city of Brookings is quite a typical Midwest city of about 10,000 population. It is located in Brookings County, which is an agricultural area. There are seven banks within Brookings County, and in the city itself there are two banks and three finance companies. Total deposits in the First National Bank are a little over $10,500,000, which represents something over 50 percent of the deposit volume in the county.

The First National Bank is a completely independent bank. One thing about it, that is perhaps not typical of most banking institutions, is the fact that the only interest charge in the entire bank operation is based on simple interest and that the maximum charge and the predominant rate in the installment loan division is 8-percent simple interest. When a client wants an installment loan, he is advised that the rate is 8-percent simple interest, and he has the choice of either paying the interest annually, or, if he chooses to include the interest in the monthly payments, we then add to the principal of the note the interest which is computed with a factor of 4.33 for the first year, and one-third of 1 percent is added for each month beyond 12. In other words, the factor for a 2-year loan would be 8.33, or, if the loan were for 3 years, 12.33. When interest has been thus added to the note, a statement is typed on the back of the instrument to the effect that interest has been computed on the basis of 8-percent simple and included in monthly payments. If the note is prepaid, the same rate is used in computing the refund. In short, we want our client to fully understand the rate that he is actually paying and not be under any misconception that he is borrowing money at 4 percent because that is the annual factor used.

The growth of consumer credit during the past decade has been little short of phenomenal. Whenever we have a vast expansion in any part of our national economy, we are bound to find certain abuses that will creep into this expansion, and that is certainly true in the field of consumer credit. Maximum interest rates are regulated by the laws of each State, and I firmly believe that that is where rate control should be. Conditions that might exist in Alaska certainly would not be the same as in South Dakota or Florida.

As individuals, we are all interested in the cost price of any commodity. When the cost of that commodity is greatly enhanced by the addition of very heavy carrying or finance charges, then it is bound to affect the well-being of our economy. One of the most unfortunate things that is happening in the consumer credit field today is that very few buyers know or realize the rate of interest they are required to pay. Various misleading terminologies are used, and most people are unable to translate the finance charge in terms of actual interest.

Permit me to illustrate this point. Supposing that Joe is purchasing a car and wants to finance $1,500, which is to be repaid at a rate of $125 plus interest each month and to be paid in full over a period of 12 months. He inquires as to the interest rate and is told that this can be financed for "6 percent straight." How much interest is Joe going to pay? The answer is $90, or 6 percent of the entire amount borrowed. The fact that the borrower was making monthly payments did not cut the interest at all, and when he was down to the last month and owed only $125, he was still paying interest on the entire original amount borrowed. He thought he was borrowing money at 6 percent interest, when the truth is it was nearly 12 percent on a simple-interest basis.

I will illustrate this further by a concrete case. This man is a college graduate, and, in fact, has a master's degree in economics. Several years ago he asked us to finance $4,000 on a trailer home, and at that time we were loaning money on a 7 percent simple basis. The loan was set up 1 year at a time with the entire balance due on the 12th month. Interest was, of course, computed on the unpaid balances from month to month. The first year went by, and the loan was renewed for a second year. In the meantime interest rates had increased, and we told him that the rate would go up to 8 percent simple interest for the third year. Our client told us that he could get money at 7 percent, and that was all there was to it. Our loan was paid off with a check from a finance company. I was pretty sure that I knew what had happened, and several months later I found out, for our client came back and asked us to please figure out what was wrong with his loan. It was easy to work out, for in order to avoid our 8 percent simple interest rate, he had fallen for the so-called 7 percent straight interest talk, and too late, he found out that he was paying between 13 and 14 percent for the use of the money. This man then asked the finance company to pay off the loan, and, of course, he again had to pay a penalty for prepayment.

Here is another situation which is very common. An individual will make a purchase, and he will then be asked if he would like to arrange the financing of a part of the purchase price. The main question that he is asked is, How much per month is he able to pay? The contract will be drawn to fit his budget, but for some reason unknown to me, the purchaser will not pay any attention to the number of months that the contract is going to run. Certainly it is stupid on the part of the buyer for the contract will probably set out in black and white the dollar amount of finance charges, insurance, etc., but the buyer goes out completely oblivious as to what he is actually paying for this service. This is a concrete example. A young man with a high-school education purchased a car. The difference in the exchange was $825. The financing was arranged at $52.30 per month for a total of 24 months. The total amount to be repaid was, of course, $1,255. Thus, the finance cost of $430 was more than 50 percent of the amount of the exchange. Broken down, this included about $175 for 2 years' insurance, and the balance of $260 was the carrying charge. The buyer was, of course, purchasing the insurance, and that should be added to the purchase price, so that the amount that he was borrowing was just under $1,000. The $260 charge for carrying the $1,000 for 2 years meant that he was paying just about 25 percent on a simple interest basis. The young man showed this contract to his employer who brought it in to the bank, and the finance company was paid off. The bank loan, which also included insurance, was set up over an 18-month period. The repayment figure was $54 per month. While the monthly payment was increased by $1.70 per month for 18 months, the buyer shortened the paying period by 6 months at $52.30. I will refer to another situation in this case later in this statement.

Another similar factual situation was that a customer of ours called me one evening and said that he wanted to go to a nearby city to purchase a car that he had seen

advertised on television. I approved the loan for $1,800, payable $60 per month, which, with interest, would require about 33 months to liquidate. The man called me back the next day from this city and told me that the car had just been sold before he arrived, but that he could buy another one just about like it for a couple hundred dollars more. He also told me that the dealer had offered him a better finance deal than ours because he could get a contract at only $55 per month rather than $60. I naturally asked the customer how many months he would have to pay the $55, and he couldn't tell me. When he found out that the contract was to run for approximately 40 months, he, of course, saw daylight, but again for some reason the customer was totally ignorant as to the true finance charge and the number of months that the contract had to run.

S. 2755 is a very simple and forthright measure. It merely requires that any one that is extending credit advise the purchaser in writing before the transaction is consummated, first the amount of the charge for the credit, and second a statement in terms of simple interest as to what that charge amounts to. The use of money has a certain basic value. Any loaning institution must add to that a charge for the risk involved, plus an additional charge for the work element that may be required to handle that type of transaction. I do not say that some of these transactions should not have a high rate of interest, but I do say, and firmly believe, that the borrower has a right to know what he is actually having to pay and in the terms of simple interest. If the buyer has that awareness, then it can only be up to him as to whether or not he wants to complete the transaction. To me, one of the main objectives of government is the protection of its citizens. If there are large numbers of our people that are unable to comprehend or understand the confusing and misleading interest terminologies that are commonly used, and, if we can correct this situation by the enactment of a measure such as this, then I think we owe that obligation to our citizenry.

To me, S. 2755 is not a regulatory measure. If we were to enact a law that would attempt to limit the rate of interest that could be charged or to limit the number of months in which payments could be made, or, if we would try to prescribe the amount of the downpayment, then such a law would be regulatory. In S. 2755, all that is being required is that the buyer be informed of the truth in language that he can understand. We have legislation today that requires the manufacturer of clothing to show us the kind of materials that are in the piece of goods. We are entitled to know the percentage of wool and whether it is new or reused wool. We are entitled to know the percentage of the garment that might be cotton, dacron, or some other fiber, and, if the fiber is a trade name, we are even entitled to know of what it is made. The same situation exists with the Food and Drug Act. Whether we are buying vitamins or cornflakes, the label must tell the buyer just what is in the package or the bottle. Those measures exist for the protection of the buyer and the obvious reason for the law was to correct abuses that must have existed. S. 2755 does exactly the same thing.

Millions of people in our Nation find that it is necessary or expedient to use consumer credit, and this credit is a very integral part of our economy. When excessive charges are made, it has a very definite effect on both the people that are paying those charges and on our economy in general. In analyzing the consumer credit problem, we should give some thought as to why certain abuses exist. In the first place, the financing of consumer credit is, of course, a very competitive field. Normally competition in itself will regulate the price. Unfortunately, that has not been the case with consumer credit. The great bulk of consumer credit originates with the merchant or dealer. They are the ones that control where this finance paper is going to be sold. The competition that has developed is as to which financial institution can do the most for the dealer. What I am talking about is the "kickback" from the financial institution to the originator of the credit. This item in itself is costing the people of our country untold millions of dollars and is all being added in as a part of the cost of consumer credit to the purchaser. I am sure that I am safe in saying that with many originators of credit the fees they are receiving for these "kickbacks" will be a very substantial part of their net earnings.

Again, we should step back a few years in the history of consumer credit. As the plan was growing and developing, dealers and merchants were selling paper to financial institutions, and the originator of the credit was required to guarantee the payment of the obligation of the purchaser. Good business practice was to set up a reserve fund out of which losses would be paid. This is still done and is legitimate to a degree; that degree should be a reserve in an amount that would protect the dealer from losses that he might sustain on the paper sold. As consumer credit continued to develop, most financial institutions found that in general their experience was very satisfactory. Consequently, the provisions of the guarantee were limited. As the reserve fund became larger than was necessary for the dealer's protection, the overages were returned to the dealer.

In my judgment this situation is getting completely out of control. Only a small part of the amounts credited to a dealer are a legitimate reserve. The balance of it represents how much the dealer can get for selling the paper. The situation has deteriorated so far that today if a dealer merely sends a customer to a financial institution and they make a direct loan, that dealer is given a substantial check for sending someone a customer. A perfectly normal payoff on that type of a transaction is approximately 20 percent of the finance fee, which again is all added to the cost of the credit to the consumer.

Another situation that exists is that many financial institutions will furnish to the dealer a table of a net amount that they will have to receive on various classifications of credit. The dealer is authorized to make any additional charge that he can within the limits of the State law, and he will pocket the difference.

You will recall that I mentioned that I would refer again to a case in which the differential on a transaction was $825, with a $430 finance charge which included insurance of $175 and a carrying charge of $260. The day that we happened to take up that loan, the dealer in question let it be known to me that what we had done had just cost him $77. The dealer received approximately 23 percent of the $260 finance charge, or $60, and in addition received 10 percent of the amount of insurance that was sold, or $17 more.

It so happens that the $77 dealer "kickback" was $18 more than our interest charge for financing the loan over a period of 18 months. The young man that signed up the contract was totally ignorant as to the rate that he was having to pay. In our own bank there is no such thing as a dealer "kickback." One of the main reasons that we will not tolerate it is that the "kickback" would, of course, have to be added to the cost of financing, and we know that the customer would be told that he was getting a bank loan, and the blame for the higher rate would, of course, fall on our shoulders because whenever a bank is buying dealer paper the purchaser again is lulled into security because of the fact that he thinks that it is a bank loan.

I am frankly just as critical of banks as I am of finance companies for permitting this situation to get so far out of hand.

What salutary effect would S. 2755 have on a situation like the dealer "kickback"? In my judgment, no dealer is going to enjoy telling a customer that he is going to have to charge him 15 percent or 25 percent interest, particularly when that charge includes a substantial part of it for the dealer. Certainly, both the dealer and the customer will be seeking outlets where the price for the use of the credit will be commensurate with the risk.

In my judgment the passage of S. 2755 would give immeasurable protection to those that cannot understand the intricacies of consumer credit contract. I sincerely think and feel that it would be a good thing for the economy of our Nation.

STATE OF WISCONSIN,
AGRICULTURAL EXTENSION SERVICE,
Madison, Wis., April 6, 1960.

Hon. WILLIAM PROXMIRE,
U.S. Senate, Washington, D.C.

MY DEAR SENATOR PROXMIRE: Enclosed is a copy of a resolution passed by the Wisconsin Home Economics Association regarding legislation requiring disclosure of finance charges, which we offer in support of Senate bill 2755, which I believe you and Senator DOUGLAS are cosponsoring. We feel very strongly that credit granting institutions should give more information and should reveal the true annual interest rate, since many consumers do not understand the costs which they are paying.

Sincerely yours,

LOUISE A. YOUNG,
Chairman, Family Economics-Home Management Section, Wisconsin Home Economics Association.

RESOLUTION FROM THE WISCONSIN HOME ECONOMICS ASSOCIATION REGARDING LEGISLATION REQUIRING DISCLOSURE OF FINANCE CHARGES

Whereas consumers frequently fail to inquire regarding credit costs, are ill informed or are unable to determine true credit costs; and

Whereas credit granting institutions frequently fail to give consumers information regarding charges for financing: Be it

Resolved, That the Wisconsin Home Economics Association hereby gives support to legislation requiring the disclosure to consumers of all finance and other charges in itemized form and in terms of both monetary value and true annual interest rate in connection with the extension of credit to persons by all credit granting institutions.

This is in support of Senate bill 2755, amended or a substitute bill.

MISCONDUCT BY MILITARY PERSONNEL

Mr. DIRKSEN. Mr. President, reserving my right to the floor, I yield 3 minutes to the distinguished Senator from Ohio [Mr. LAUSCHE].

The PRESIDING OFFICER. The Senator from Ohio.

Mr. LAUSCHE. Mr. President, based upon repeated disclosures in the newspapers of imprudent management, extravagance, and, frequently, conduct bordering upon deliberate misuse of taxpayers' money in the Department of Defense, there is coming to me a deluge of letters asking why Congress does not do something about it. I have particularly in mind the footlocker episode in which a request was made by an Army base in

Europe for 300 footlockers. Within a few hundred miles of that Army base there were available 700 unused footlockers, but, through some legerdemain, it was decided in the Pentagon to ship 30,017 of them—29,717 more than were needed. In the making of that shipment, $100,000 was expended as shipping costs. In addition to that, those 29,717 lockers will have to be stored and expenses paid incident thereto.

More than that, Mr. President, there recently was disclosed the abuse of engaging in the black market in Turkey. High Army officials were alleged to be involved. Turkish currency was being bought in the open black market at a price far below the official market price.

Those high officials have gone unpunished and undisciplined, although the black marketing was definitely in the realm of commercial activity.

I recognize that with a budget of $40 billion, errors and mistakes will occur in its expenditure, but they are happening with entirely too much frequency.

These reports are red lights. We ought to stop when we see them. We ought to make certain that something is not existent which is running throughout the whole structure of the Department of Defense.

Having in mind the fact that in a huge organization of that type mismanagement will occur, these things are happening entirely too frequently, without any indication that adequate disciplinary action is being taken. I am glad to see that in the House of Representatives these matters are being investigated.

Mr. President, these letters come to me. I am only 1 of 100 Senators. I have no executive power over the matter. I wish I did have. These abuses would not go unchecked. The public would know what was happening, and adequate action would be taken, to set a deterring example for others.

My own belief is that the Committee on Government Operations ought to begin investigating these matters and taking the necessary action to bring the abuses to an end.

CIVIL RIGHTS ACT OF 1960

The Senate resumed the consideration of the bill (H.R. 8601) to enforce constitutional rights, and for other purposes.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. DIRKSEN. Mr. President, there are a few other short speeches before I make the motion to table. I can recognize the distinguished Senator from Florida [Mr. HOLLAND], if he is ready to proceed at this time, or the distinguished Senator from New York [Mr. JAVITS].

The PRESIDING OFFICER. Who receives the designation from the Senator from Illinois?

Mr. DIRKSEN. Mr. President, if the Senator from Florida is ready to proceed, I yield to the Senator from Florida with the understanding that I reserve my rights to the floor.

The PRESIDING OFFICER. Without objection, the Senator from Florida is recognized.

Mr. HOLLAND. Mr. President, I appreciate the courtesy of the distinguished minority leader.

Mr. President, as we approach the end of our consideration of the so-called civil rights proposals in this, the eighth week of debate, I believe it is appropriate to survey the results of the many hours and days of strenuous, time-consuming effort which have been devoted to the debate by Senators of all points of view. When the group of southern Senators of which I am a member began extended debate there were many persons in our States and throughout the Nation who expressed the opinion that ours was a hopeless effort, foredoomed to complete and humiliating defeat. However, as we examine the bill which seems about to be passed, I believe the inevitable conclusion is that never in the history of the Senate has the use of extended debate been more completely justified, both as a defensive shield against the extreme measures which were threatened and as a means of accomplishing sweeping changes after and as the result of an educational campaign.

A comparison of the bill before us today with the substitute to H.R. 8315 offered by the distinguished minority leader, Senator DIRKSEN, on February 24, reveals the extent to which reason, commonsense, and good will have prevailed. In title I of H.R. 8601, as the result of amendments which were approved, we now have a provision which makes it a criminal offense to obstruct all Federal court orders, not just those relating to school desegregation, as was provided in the original Dirksen measure. This provision, of course, gives the alleged offender the right of trial by jury. During the bill's consideration the Senate eliminated from this provision the flagrant threat to freedom of speech which was contained in section 1 of the original Dirksen substitute.

Title II of the pending bill has been enlarged so that it now creates a new criminal offense—to travel in interstate or foreign commerce to avoid prosecution or the giving of testimony in connection with bombings of all types of property, not just that which is used for religious or educational purposes. This is a significant change from the original wording which would have winked at other instances of hate bombings, including its actual use heretofore in some labor disputes. As now written, this section makes possible active participation of the FBI in apprehending criminals who resort to this despicable practice. Our Florida delegation was heretofore denied the help of the FBI in seeking to solve a hate bombing of a Florida synagogue.

Title III of the bill before us has been made more workable and reasonable by reducing from 3 years to 22 months the time of the period during which voting records and papers must be retained after the holding of an election. This will avoid interfering with the use of ballot boxes, voting machines, and all types of papers and records in subsequent elections of the same type, which customarily occur at 24-month intervals. Another meritorious amendment requires that any inspection or reproduction of voting records must be carried out at the principal office of the local voting official, thus sparing him the time, inconvenience, and expense required to transport his records to some other location.

Title V of the pending bill, to provide Federal schooling for defense-impacted areas, has been moderated by eliminating the extreme provision which would have given the Commissioner of Education in some cases the arbitrary power to seize local schools closed by racial difficulties.

While I regret that the voting referee provision, title VI, has been retained in this bill, it is comforting to realize that Senators have overwhelmingly rejected all efforts to include in it the provision for Federal registrars. These officials would have been political officers, appointed by the President, who would have been allowed to conduct star-chamber proceedings. While it is regrettable that a court referee, appointed under this title, may supplant locally elected registration officials, it is far better to have this function, wrong as it is in principle, carried out by an officer of a court in a judicial atmosphere, rather than by a group of political appointees. In addition, the amendment adopted yesterday expresses the intent of the bill never to override State laws for voter qualification.

Other extreme, coercive measures have fallen by the wayside during this prolonged debate as a result of the good judgment and good will of the Senate, which have come into play as an incident of the extended debate. The provision in the minority leader's substitute which sought to impose upon this great legislative body the responsibility for rubber stamping the Supreme Court decision regarding segregation in public schools has been defeated. Also rejected was the provision declaring it a Federal responsibility to share in expenses of school desegregation and authorizing the Commissioner of Education to carry out certain activities regarding desegregation. We have also decisively defeated all provisions of the type usually known as limited FEPC proposals, as represented by Section 6 of the Dirksen substitute, and by more general FEPC amendments which were advanced by several Senators.

Other extreme measures which were not in the substitute sponsored by the distinguished minority leader have been repeatedly rejected. On three separate occasions proposals of the type represented by title III of the 1957 bill have been brought up in the Senate as amendments for inclusion in the legislation before us, and all three times the Senate has repulsed these zealous efforts. These proposals were designed to permit the Attorney General to use injunctions in all kinds of civil rights cases and to use criminal contempt proceedings for enforcement which would have largely done away with the right of trial by jury. Other radical amendments such as anti-lynching proposals were lurking in the wings as printed amendments, lying on the desk and

ready to be presented at the first sign of encouragement, which fortunately never came.

As the debate progressed, it became clearer and clearer that a great majority of the 100 Senators were inclined to approach the race problem in the South through persuasion and conciliation and to avoid coercion, compulsion, and punitive vindictiveness.

By thus refining this measure through the course of the 8-week debate the Senate has once again demonstrated the wisdom of the Senate rule permitting unlimited debate. We have shown that this rule makes it possible to require both the Senate and the Nation to stop, look, and listen. We have once again demonstrated the wisdom of Mr. Walter Lippmann's observation:

> When there is strong opposition, it is neither wise nor practical to force a decision. It is necessary and it is better to postpone the decision * * * to respect the opposition and then to accept the burden of trying to persuade it. For a decision which has to be enforced against the determined opposition of large communities and regions of the country will, as Americans have long realized, almost never produce the results it is supposed to produce. The opposition and the resistance having been overridden, will not disappear. * * *
>
> The question is whether the vindication of these civil rights requires the sacrifice of the American limitation on a majority rule. The question is a painful one. But I believe the answer has to be that the rights of Negroes will in the end be made more secure, even if they are vindicated more slowly, if the cardinal principle—that minorities shall not be coerced by majorities—is conserved.
>
> For if that principle is abandoned, then the great limitations on the absolutism and the tyranny of transient majorities will be gone, and the path will be much more open than it now is to the demagogic dictator who, having aroused a mob, destroys the liberties of the people.

Earlier in the debate, I quoted Mr. Lippmann's entire article on this subject, as well as articles of Messrs. Arthur Krock and David Lawrence on the soundness of the rule permitting unlimited debate. These three experienced observers of the American scene are entitled to the great respect of Americans of all points of view. My quotations from them will be found on pages 4370 to 4372 of the CONGRESSIONAL RECORD for March 3.

As we look back upon the past 8 weeks of debate, Mr. President, I feel that all Americans are justified in being optimistic over the future of our great Nation and of its people. We are compelled to recognize the value of unlimited debate as part of our system of checks and balances, which, while exasperating at times to the impetuous, gives time for emotions to cool and for reason to prevail, thus protecting the American people from ill-considered, unwise, and divisive proposals.

Senators of both of our great political parties, from all sections of our country, have joined in helping to defeat the plethora of punitive proposals which would have wrought so much havoc in the Southland. On behalf of all of the people of Florida, I express our profound gratitude to all those Senators who have been tolerant, understanding, patient, and considerate of us and of the difficult racial problems which we are trying to solve for the best interests of both races. We from the South will make every effort to be just as considerate of your people when other issues are before the Senate which vitally affect your areas. And we shall continue our permissive, persuasive, but not coercive course of action under which we have made so much progress.

In particular, Mr. President, I wish to express to the distinguished majority and minority leaders, Senator JOHNSON, of Texas, and Senator DIRKSEN, of Illinois, my own special appreciation of the fact that they have insisted on seeing that the South had ample time to state its case and they have not hesitated to stand with us when they thought we were right. They have not deviated from their announced intention to secure the enactment of a civil rights bill along lines which they clearly outlined, time and time again, but they have shown their concern for the rights of the States represented by the southern Senators and have insisted that the 50 million people whom we represent should not be unduly punished or humiliated by any bill which should be passed by the Senate on this subject. In the main they have shown their understanding that progress will not be accomplished in this difficult field by coercion or compulsion.

Mr. President, I wish I were in position to vote for the bill, because of the vast improvements which have been made in it, and because so many conscientious Senators from every area of the Nation, and from both sides of the aisle, have assisted us in confining the legislation within the relatively moderate provisions of the pending bill.

However, in all candor, I must and shall vote against the bill, because of the voting referee provision in title VI. I do not think it is wise procedure or sound constitutional law to displace duly elected registration officers by referees appointed by the Federal courts and under Federal law. I believe that little good and much harm will be done if that provision is activated in every county where a Negro citizen or group of such citizens may be persuaded by the NAACP to press their complaint before a Federal court instead of before the local officials and courts of their State, or the Governor of their State.

Permissive procedures are now under way in all the Southern States. My own State has gone particularly far in that regard. We repealed the poll tax in 1937. We eliminated the all-white primary in the legislative session of 1943. Last year we had more than 152,000 Negroes registered on our rolls. This year, as we prepare for the general election, that number is being sizably enlarged. Even in the five counties in our State where the procedure has not been generally accepted heretofore, there has been a large additional registration of Negro citizens in the last few weeks, just before our primaries next month.

Florida, from its practically standing start in 1937, has now come to a position in which 41.6 percent of all our Negro citizens of mature age are registered and are taking part in our government.

We shall continue in that course of permissive action. Senators will recall that a few weeks ago on this floor I strongly urged the submission of a constitutional amendment to the States of the Nation eliminating the poll tax requirement for participation in all Federal elections. The Senate adopted that amendment by an overwhelming vote. I hope that measure will be pushed to ratification by the States, because I predict that in most of the cases which may arise under title VI of the proposed law, in those States where the poll tax provision still exists, it will be found, at long last, that Negro citizens who are applying and complaining because of inability to register, as claimed by them, have not paid their poll tax, and therefore are not qualified to vote, under that completely clear provision of the State law.

I close by saying that in my judgment the Senate has abundantly justified the wisdom of the Senate system. I am grateful for the kindness, for the good feeling, for the absence of bitterness, and for the sensible way in which the debate has gone forward, as well as for the fact that I believe, without a single exception, every speech made during the course of the debate has been germane to the many issues involved, which have rightfully arisen during the discussion.

I yield the floor.

Mr. DIRKSEN. Mr. President, I am grateful to the distinguished Senator from Florida for his generous allusions to me.

Reserving my right to the floor, I yield 5 minutes to the distinguished senior Senator from New York [Mr. JAVITS]. I believe that my colleague from Illinois desires 4 minutes.

Mr. DOUGLAS. Mr. President, I should like to have 6 minutes.

Mr. DIRKSEN. Very well; I shall yield 6 minutes to my colleague. At the end of these statements I shall renew my motion to table the motion of the distinguished Senator from Mississippi [Mr. EASTLAND]. I shall then suggest the absence of a quorum and ask that the Senate may proceed to vote on my motion.

Therefore, reserving my right to the floor, I yield 5 minutes to the distinguished senior Senator from New York.

Mr. JAVITS. Mr. President, the bill we expect to pass today, which bears the name "Civil Rights Act of 1960," is not one of which either the Senate or the country properly can be proud.

It is by no means a meaningless bill, and it does constitute a modest advance which is worth voting for, since it contains provisions against hate-bombing, punishing obstruction of court orders, requiring voting record retention, providing desegregated schools for children of the members of the armed services, and for voting referees. But it is also very disappointing that after 8 weeks and so many hours of debate we should end up with a product which is so much less than the moderate bill the President had requested, and does not rise to the towering issues of racial relations at home or abroad.

Mistake it not—this bill might be considered a victory for the Old South, using that term in its traditionalist sense. It may be a Pyrrhic victory—but it may be

considered a victory nonetheless, considering what was kept out of the bill. For, in the failure of the Congress to meet the issue of laws and action to thwart compliance with the constitutional guarantee of equal educational opportunity, and in the defeat of the effort to give a statutory base to the Commission on Equal Job Opportunity Under Government Contracts—notwithstanding that the two items were part of the administration program—the Old South may be considered to have scored a marked success—again I use that term in its traditionalist sense—in the civil rights fight. This is quite apart from the fact that the voting referee provision has been reduced in its impact and that nothing was done in the bill about any authority to the Attorney General to sue in other than voting rights cases. Mr. President, I believe the New York Times this morning summed it up rather well when it said that this was "only one victory out of a dozen attempts to tighten the bill."

I hasten to say that it is no disgrace to be defeated. So I, too, would like to join in paying tribute to the leaders who did their best, according to their lights, to bring through some kind of bill, and who, from all appearances, have apparently succeeded.

It is not for any of us to say that this itself is not a very remarkable thing under the circumstances, in view of another point which I shall make in a minute.

I hope and pray that the majority may be right if it be their view that this legislation is adequate to head off deeper troubles. I have the faith in the American system to be anxious that this be so, and that everything will be done to make this bill work. That will take further action by the Executive in implementing with courage and vigor the powers which are given it in the bill; by the Congress in providing sufficient funds and personnel to carry out its objectives; and by the judiciary, which has carried the greatest burden so far in protecting the constitutional rights of all citizens to continue in this effort.

My final observation is this. I do not believe this is the civil rights bill the majority of the Senate wants. I could not believe it in the face of the growing tension on this issue in our own country and the world and the duty of legislators to seek to head off these conditions instead of letting them threaten to overtake us. It is not what they want, but this is what they thought they could get.

The Senator from Illinois [Mr. DOUGLAS], who is in the Chamber, and I tried cloture and failed to get even a majority, and it seemed that there were just not enough votes for cloture at any stage. Senators wanted the terms of the bill settled before voting cloture, and this is the very essence of the self-contradiction in the Senate rules. By this means a minority of the Senate exercises, even in the final analysis, a veto power over civil rights legislation.

In conclusion, the real lesson of the Civil Rights Act of 1960 is the failure of the Senate rules to measure up to the Senate's responsibility to the Nation at home and abroad. The Senate was again unable to secure civil rights legislation free from the threat which was constantly with us, that if the bill was not cut to a pattern which the South was willing to accept, it would be impossible to get it to a final vote. I believe that many of the needed amendments which failed to get even a majority vote were victims of an unwillingness by the Senate majority to risk a filibuster. We will not be able to get civil rights legislation adequate to the problems of our time through the Senate unless rule XXII is amended again. I believe the proposal reported by the Rules Committee which was before us at the opening of this Congress allowing cloture by a constitutional majority after 15 days of debate to be the best one. It preserves free debate without giving a veto power to a third of the Senate. I intend to join in the effort to again amend rule XXII at the opening of the next session. This effort on the rules should be followed by a new effort to get adequate civil rights legislation. This is but one in a series of civil rights Congresses, because the situation will tolerate nothing else.

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

Mr. JAVITS. Mr. President, will the Senator from Illinois yield me 30 seconds?

Mr. DIRKSEN. I yield 1 additional minute to the Senator from New York.

Mr. JAVITS. Mr. President, I would like to say to the Senator from Illinois, before I close this debate—and I wish the Senator from Texas [Mr. JOHNSON] were here—that whatever may have been our disagreements in these very tense times, it was a great joy to work with men of intelligence, whose word was good, who knew what they were about, and who were real companions as well as colleagues. I had a very difficult role which the Senator from Illinois assigned to me.

I did my best with it. I am sure it was not always satisfactory. It was certainly not always satisfactory to me. But I did want to pay this personal tribute of friendship and warm affection to my colleagues, whatever might have been our differences as to the real effectiveness of this legislation, or as to what we should have done in particular cases with respect to it.

I thank my colleagues, and I yield the floor.

Mr. DIRKSEN. Mr. President, I thank the distinguished Senator from New York. He has always been a tower of strength in this whole debate. I have relied heavily on him from time to time for his efforts and for his help. For his tribute I am humbly grateful. I now yield 6 minutes to my distinguished colleague from Illinois.

Mr. DOUGLAS. Mr. President, the bill which the Senate is about to pass sets up an elaborate obstacle course which the disenfranchised Negro in the South must successfully run before he will be permitted to vote at all. At every strategic point there are high technical walls which he must scale, and along the course there are numerous cunningly devised legal pitfalls into which he may fall. The delays and the discouragements have been multiplied so that the Senator from Mississippi spoke truly and frankly in the last public meeting of the Judiciary Committee when he said that the bill would permit only a very few additional Negroes to vote.

The precise nature of these unnecessary hurdles, pitfalls, and water jumps which have been constructed by the framers of this bill has by now been fully revealed to the Senate. They will be revealed to the country in the months and years ahead.

And it should be further noted that every move to strengthen the bill, however mild, has been defeated by a coalition—operating with the threat of filibuster—of the southern opponents of any legislation, of the overwhelming majority of the administration Republicans, and of the Democratic leadership with its 12 to 15 hard core supporters.

In all kindness, may I say that these last two groups should not take either public or secret pride in their work. It is grossly inadequate to right the great wrongs which are now practiced. It will hurt rather than help the image of America abroad, and it will be one more argument which our enemies will use against us among the colored peoples of the world. Ninety years after the 15th amendment and 93 years after the 14th, this is not a good day for the American tradition of equal opportunity. While I shall not vote against this bill, I would not blame any true battler for civil rights who in disgust with the measure refuses to vote for it.

Last night in a somewhat discouraged mood, I turned to the works of T. S. Eliot and read the concluding lines of his poem, "The Hollow Men":

> This is the way the world ends
> This is the way the world ends
> This is the way the world ends
> Not with a bang but a whimper.

I thought that in a sense this should describe the results of the work of the sponsors of this bill who, saying that they were going to produce a "meaningful" civil rights bill, have produced this hollow measure.

But those of us from the North and West on this side of the aisle, and our few but gallant allies on the other side, are not ending this fight with any whimpers of failure. We shall carry this issue to the public and be back again soon to renew our drive for a more meaningful and robust proposal.

I have quoted the poet of disillusion and discouragement. But for those of us who have tried to fight the good fight I would prefer to quote the lines from a New England poet written in a similar period of national discouragement over what was basically the same issue; namely, the struggle for human rights:

> Truth forever on the scaffold,
> Wrong forever on the throne;
> Yet that scaffold sways the future,
> And beyond the dim unknown
> Standeth God within the shadows
> Keeping watch above His own.

May God indeed not only watch over His children—among whom are the Negroes and Mexican Americans, as well as ourselves—but help us all to act in a more brotherly fashion toward each other.

Mr. JAVITS. Mr. President, will the distinguished minority leader yield me a minute to say just a word to the distinguished senior Senator from Illinois?

Mr. DIRKSEN. Reserving my right to the floor, I yield 1 minute to the Senator from New York.

Mr. JAVITS. I wish to say to the distinguished Senator from Illinois, with whom I have worked so closely during the whole debate, and as we did before, in 1957, that I derived great satisfaction from this comradeship and from trying to work things out together. I think it had its effect in helping to perfect the bill. This was the job the minority leader gave me.

I express my gratification to the Senator from Illinois for his understanding, his cooperation, and his forbearance.

Mr. DOUGLAS. Mr. President, will the distinguished minority leader permit me to reply?

Mr. DIRKSEN. Reserving my right to the floor, I yield to my colleague from Illinois.

Mr. DOUGLAS. The Senator from New York has been magnificent in this whole fight. No one could have been more determined and yet, at the same time, more poised, more balanced, or more conciliatory. The privilege of working with him and with other Senators on the other side of the aisle who felt similarly is one of the memories which I shall always cherish.

Mr. JAVITS. I thank the Senator from Illinois.

Mr. STENNIS. Mr. President, will the Senator from Illinois yield?

Mr. DIRKSEN. Reserving my right to the floor, I yield 4 minutes to the distinguished Senator from Mississippi, who will make the final speech before the motion to lay on the table will be made.

Mr. STENNIS. I thank the Senator from Illinois.

Mr. President, before the Senate votes on the motion to recommit the bill, I express the very fervent hope that the Senate never again will undertake to enact a major piece of legislation on any subject without the language first having been referred to a committee, there to be studied by experts and measured, and a report of some kind made to this body.

I make particular reference in that connection to the language on page 16, line 17, where this most amazing sentence appears:

> Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any such election.

I venture to say that very few Members of the Senate realize the full import of this language; and more than that, very few realize that this language can be brought into operation on the flimsiest kind of finding, not in the trial of a lawsuit, with a conclusion reached and a decision rendered by a Federal judge, but in a mere proceeding whereby someone can walk into court from the area where it has been declared that a pattern or a practice exists, and on proof of his own, without anyone else being given notice, and with no chance for an adversary to come into court or to be heard, have the court render its conclusion that the person is a qualified elector.

Such a flimsy proceeding is held to be enough to set aside the action of State boards, State officers, or State courts, even though they be composed of learned men, who have reached a most deliberate conclusion; or to procure a decision setting aside the provisions of a State constitution or a State legislative act.

Mr. President, it is amazing that we have reached this point. No one has undertaken to define this language, unless it be a few individual Senators in their speeches. It is an alarming day when we have come to the point of casually breezing along with such language as this, particularly when it is in connection with a subject that goes to the very heart and vitals of one of the most sensitive, most important phases of government in any State, whether it be a State of the Union or any other governmental body. That is, it has to do with the election laws, the infringement of the right to vote, and the conduct of elections.

I am amazed that such a summary proceeding as this will be accepted by this body as a basis for overriding and upsetting court decisions, acts of officers, and legislative enactments. With all deference, I frankly do not believe the Senate realizes what it is doing when it accepts language of this kind.

I thank the Senator from Illinois for yielding.

Mr. DIRKSEN. Mr. President, reserving my right to the floor, I yield 2 minutes to the Senator from Nevada [Mr. BIBLE].

Mr. BIBLE. Mr. President, the action of the Senate in passing a workable bill to provide equal voting rights for all of our citizens is another forward step in the march toward better human relations.

From the time the Fort Crowder measure was called up until the final vote is taken on a meaningful civil rights voting measure, the spotlight has been on the deliberations of this great body.

In reviewing the achievement that has been wrought here, Mr. President, I speak as a moderate—as one who has tried to view this entire debate objectively, dispassionately, and with honest regard for the arguments presented by both sides.

I have consistently been on record as supporting legislation to establish strong constitutional guarantees in the field of voting.

Reasonable men quite often seek to obtain a common goal, but their methods frequently vary.

To me there has never been a question of the right of any eligible person to vote, and I so expressed myself when the Civil Rights Act of 1957 was passed.

We regarded our work in that year as an important milestone in civil rights, but the hopes we than expressed were never fully realized in certain areas of our country.

Incontrovertible evidence abounds that many of our Negro citizens have been deprived of the opportunity to benefit from the legislation we had enacted.

I have read the reams of statistics from the reports of the Civil Rights Commission, but I am not impressed as much by numbers as I am by the lamentable fact that even one American citizen should be denied his franchise.

In a democracy a man's vote is a silent weapon against tyranny; his ballot is insurance against the fall of democracy.

Today we are spreading the message of America and its freedoms to the peoples of all the world. It is certainly a sorrowful paradox, Mr. President, that we should be urging the newly developing nations to emulate our democratic processes at a time when we are not abiding by our own constitutional directives.

I am sure, Mr. President, that by enacting a strong measure on voting rights, we are also serving notice to the world that we really do practice what we preach.

This is an election year, and it would be naive to suggest that politics has not figured in the current issue. In my opinion, Mr. President, what we have resolved in the field of civil rights this session is not the handiwork of partisanship. I look upon it as the final product of long, and at times tortuous, days of debate, of sound thinking, and sensible compromise on the part of both sides.

Mr. President, I feel that had we adjourned without moving forward in the civil rights field we would and should have been the object of censure.

As the guardian of our Nation's legislative conscience, we have produced another chapter in an unfinished volume. Gradualism might draw the scorn of impatient extremists, yet to me it represents the only sensible course to follow in an area fraught with supercharged emotions and irreconciliable viewpoints.

I make no apology for the bill we are about to pass, although I know there are those who claim it goes too far and others who complain that it does not go far enough.

It took Congress 82 years before it passed the Civil Rights Act of 1957. Now, less than 3 years later, we have again moved ahead to instill added meaning to constitutional guarantees.

I predict that what we did in 1957 and what we accomplished this year will serve as historic guideposts on the path toward eventual recognition of Thomas Jefferson's meaning of democracy:

> Equal and exact justice to all men, of whatever state or persuasion, religious or political.

Mr. DIRKSEN. Mr. President, I move that the motion submitted by the distinguished Senator from Mississippi [Mr. EASTLAND] to recommit the bill to the Committee on the Judiciary be tabled; and pending the vote on that motion, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. DIRKSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DIRKSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Illinois will state it.

Mr. DIRKSEN. What is the pending question?

The PRESIDING OFFICER. The pending question is on agreeing to the motion of the Senator from Illinois [Mr. DIRKSEN] to lay on the table the motion of the Senator from Mississippi [Mr. EASTLAND] to recommit the pending bill to the Committee on the Judiciary.

Mr. DIRKSEN. Mr. President, on this question I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. HENNINGS. I announce that the Senator from Oklahoma [Mr. KERR] and the Senator from Montana [Mr. MANSFIELD] are absent on official business.

I also announce that the Senator from Connecticut [Mr. DODD] is absent because of illness.

I further announce that the Senator from Minnesota [Mr. HUMPHREY] and the Senator from Wyoming [Mr. O'MAHONEY] are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut [Mr. DODD], the Senator from Minnesota [Mr. HUMPHREY], the Senator from Oklahoma [Mr. KERR], the Senator from Montana [Mr. MANSFIELD], and the Senator from Wyoming [Mr. O'MAHONEY] would each vote "yea."

Mr. KUCHEL. I announce that the Senator from Vermont [Mr. AIKEN] is absent on official business.

The Senator from Colorado [Mr. ALLOTT], the Senators from Kansas [Mr. SCHOEPPEL and Mr. CARLSON], and the Senator from Arizona [Mr. GOLDWATER] are necessarily absent.

The Senator from Idaho [Mr. DWORSHAK] is absent on official business attending a meeting of the Air Force Academy. If present and voting, the Senator from Vermont [Mr. AIKEN], the Senator from Colorado [Mr. ALLOTT], the Senators from Kansas [Mr. SCHOEPPEL and Mr. CARLSON], the Senator from Idaho [Mr. DWORSHAK], and the Senator from Arizona [Mr. GOLDWATER] would each vote "yea."

The result was announced—yeas 70, nays 19, as follows:

[No. 163]

YEAS—70

Anderson	Curtis	Kefauver
Bartlett	Dirksen	Kennedy
Beall	Douglas	Kuchel
Bennett	Engle	Lausche
Bible	Fong	Long, Hawaii
Bridges	Frear	Lusk
Brunsdale	Gore	McCarthy
Bush	Green	McGee
Butler	Gruening	McNamara
Byrd, W. Va.	Hart	Magnuson
Cannon	Hartke	Martin
Capehart	Hayden	Monroney
Carroll	Hennings	Morse
Case, N.J.	Hickenlooper	Morton
Case, S. Dak.	Hruska	Moss
Church	Jackson	Mundt
Clark	Javits	Murray
Cooper	Johnson, Tex.	Muskie
Cotton	Keating	Pastore
Prouty	Smith	Yarborough
Proxmire	Symington	Young, N. Dak.
Randolph	Wiley	Young, Ohio
Saltonstall	Williams, Del.	
Scott	Williams, N.J.	

NAYS—19

Byrd, Va.	Holland	Smathers
Chavez	Johnston, S.C.	Sparkman
Eastland	Jordan	Stennis
Ellender	Long, La.	Talmadge
Ervin	McClellan	Thurmond
Fulbright	Robertson	
Hill	Russell	

NOT VOTING—11

Aiken	Dworshak	Mansfield
Allott	Goldwater	O'Mahoney
Carlson	Humphrey	Schoeppel
Dodd	Kerr	

So Mr. DIRKSEN's motion to lay on the table Mr. EASTLAND's motion to recommit was agreed to.

Mr. DIRKSEN. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. JOHNSON of Texas. Mr. President, I move to lay that motion on the table.

The motion to reconsider was laid on the table.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that we may have the yeas and nays ordered on final passage, and that the minority leader may have 3 minutes before the rollcall.

The PRESIDING OFFICER. Is there objection?

Mr. LONG of Louisiana. Mr. President, does that unanimous consent limit the time to 3 minutes? If so, I object.

The PRESIDING OFFICER. There is objection.

The yeas and nays on final passage have been requested.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

Mr. DIRKSEN. Mr. President——

The PRESIDING OFFICER. The Senator from Illinois.

Mr. LONG of Louisiana. Mr. President, if the Senator from Illinois does not care to have the floor, he may yield.

Mr. DIRKSEN. Mr. President, I am ready to vote if the Senator from Louisiana——

Mr. LONG of Louisiana. Mr. President, I would care to say a few words on the bill.

The PRESIDING OFFICER. The Senator from Illinois has been recognized.

Mr. RUSSELL. Mr. President, the Senator from Illinois cannot hold the floor to the exclusion of other Senators.

Mr. LONG of Louisiana. Mr. President, if the Senator from Illinois does not care to speak, I do not see how he can hold the floor.

The PRESIDING OFFICER. Does the Senator from Illinois yield the floor?

Mr. DIRKSEN. Mr. President, the Senator from Illinois has not yet yielded the floor. If the Senate will indulge me, I will occupy the floor for only about 3 minutes.

Mr. PASTORE. Mr. President, will the Senator please speak a little louder?

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. DIRKSEN. I yield.

Mr. LONG of Louisiana. I wish the Senator to know that I have no objection whatever to the Senator having the floor for 3 minutes. My objection was to the request to cut off debate for the other 99 Senators.

Mr. DIRKSEN. I understand.

Mr. President, this has been a long and hard and somewhat tortuous road. We have deliberated this matter for nearly 8 weeks. I suppose some feel that the effort has been wasted. Others feel that we have not gone far enough.

Mr. RUSSELL. Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Illinois may proceed.

Mr. DIRKSEN. Mr. President, others may feel we have gone too far, but in my opinion, we have wrought something worth while, which is progressive, which is constructive, and which is purposeful. I believe it to be meaningful.

The whole debate demonstrates anew certain truths. The first is the caution which must be exercised when one intrudes the Federal power into the affairs of the State. I have a high regard for our State-Federal relationship, so I like to see caution exercised, as I think it was exercised in this long discussion.

This proves also, Mr. President, that the fulfillment of the American dream is a gradual process. It does not come about overnight. All its intimate relationships are involved before us, in the passion with which we can address ourselves to this question of civil rights. This demonstrates anew that by a gradual process we round out the great American dream which was sketched for us 180 years ago.

It demonstrates also that the Senate is capable of moderation and of avoiding the extremes. I think it could be said that 25 years ago sometimes we charged first down one extreme road and then down another, only to find that we had to retrieve our steps. What we have now wrought is a moderate bill, and yet it represents a significant forward step in the whole field of civil rights. I salute the tolerance of the U.S. Senate. We could have gotten into difficulties had we permitted spleen and passion and provocation to carry us to expressions which would reflect ill temper, but almost always, with very few exceptions, the entire debate was germane to the issue, and there was a rare kind of tolerance at all times in considering this matter.

What the Senate did demonstrates also that the Senate in this day and age is equal to a crisis, even as it has been in every generation of the Republic. Crises have occurred, and others will occur in every generation. The very fact that we have not shirked our responsibility, that we have wrestled with this problem for 8 weeks, demonstrates as nothing else can that when a crisis comes—and this was something of a crisis—we are equal to it. This issue has been dormant for nearly fourscore years, but finally we found it on our doorstep. Instead of sidestepping or shrinking, we have met the challenge in

a gradual and a rational fashion, which reflects credit on the entire Senate.

I believe what we are about to accomplish will enlarge the influence of the United States abroad. If we are going to sell freedom, if we are going to sell equality, then it becomes our responsibility to practice what we preach. I am not Irish at all, but I have often said that one of the glaring mistakes in British policy was that the British did not permit the people of Ireland, by a plebiscite, to vote upon their own union and the joining of those six counties which are today not properly a part of Ireland and really under the jurisdiction of Great Britain. I indicated as much to the Colonial Minister in London some years ago when I said, "How do you expect to persuade the people elsewhere in the world to follow Anglo-Saxon leadership unless you practice what you preach? Charity should begin at home."

So in what we are doing we are practicing what we preach. It will in my judgment enlarge the prestige and the influence of our beloved country.

I close on one note. I salute the majority leader of the U.S. Senate. It required no particular courage on my part to pursue the course I have followed. It would have required no particular courage on my part to have pursued an even wider course, if necessary. However, for the majority leader to have devoted his skill, his talent, his conviction—and it must have been conviction—and his courage, to the task which began on the 15th of February, is a remarkable tribute to the majority leader of the U.S. Senate. I think he is entitled to the plaudits and the tribute of every Member of this body.

I hope Senators will bear with me. I have a particular salute for my distinguished friends from New York [Mr. JAVITS and Mr. KEATING]. They have monitored this bill from start to finish. I know, since they have a situation somewhat different from mine, because of the conviction which has ever marked their course, sometimes they might have been frustrated. Never has it been reflected in temper or in feeling. Always there has been the best of spirits.

This, too, is a testimony to the Senate, when it deals with a very complicated problem.

I am glad we are at the end of the road. I think we have reflected credit upon this body. I am grateful to the Senators for their diligence and for their devotion, in remaining with this issue until we have brought it to this point, where the Senate will now determine whether the bill shall pass.

For myself, I can only humbly express my gratitude that I had a very modest part in the fulfillment of this achievement, which marks forward progress in the fulfillment of the American dream.

Mr. President, I am prepared to vote.

Mr. LONG of Louisiana. Mr. President——

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. LONG of Louisiana. Mr. President, anyone who is sincerely interested in the welfare of the Negro should recognize that more will be accomplished by conscientious well-meaning white people of the South than any law which the Federal Government can impose upon our area.

We have before us a bill which proposes to protect the voting rights of the colored man. Very little will be accomplished by passage of this bill if the majority of the white people of the South are determined to frustrate its terms and conditions. There occur to me many ways in which white southerners can frustrate the terms of the bill before us, if they care to do so. For one thing, so long as the poll tax is legal and constitutional, a State can pass a high poll tax, particularly if it is an accumulative poll tax which denies a person the right to vote unless he has paid his poll tax for 3 or 4 successive years.

On occasion I have pointed out the extent to which poll taxes have retarded the registration of poor white voters and Negro voters alike. Thus, by means of a high poll tax, a State can prevent the great majority of Negro voters from registering and participating in elections.

Furthermore, States can require educational qualifications beyond the ability of the great majority of Negroes. These are only two of the most obvious ways in which the white southerner can overcome Federal restrictions in his effort to benefit Negro voters so long as the desire is not present to respect the purpose and the spirit of the law. However, far beyond the measures available to southern whites to resist the purpose of the legislation before us without violating the law itself, are the many measures available to southern whites to retard the progress of the Negro, if the white people care to do so.

It must be remembered that in Southern States, notwithstanding the high percentage of Negro population, the majority of people are white. With the single exception of the State of Mississippi, not a mere majority, but an overwhelming majority of the citizens of those areas are white. Furthermore, the whites as a class control most of the wealth and most of the positions of power—economically, socially, and politically. This will continue to be the case for a great number of years, whether Senators like it or not.

Anyone who even begins to understand the political, social, and economical situation in the South would be quickly forced to the inescapable conclusion that little indeed can be done for the colored minority in the Southern States without the cooperation and assistance of the white majority. As a white southerner, I have seen the tremendous progress made by the Negro people of my State. It has been a progress which has accelerated from year to year. The progress of the colored man in the South was continuing to pick up speed and momentum until the unfortunate, and I believe almost disastrous, decision of the Supreme Court in ordering an end to segregation of the public schools in the South. A great amount of this progress was accomplished because of the good will and the active assistance of the white leaders of that area.

I do not for a moment contend that this good will and active assistance in helping the colored man to better himself has been universal or without exception. The South, like every other part of the Nation, has a number of people who are motivated by fear, distrust, suspicion, and hatred. However, the South, like every other section of the Nation, is led and controlled by people of good will, human understanding, and Christian charity. The story of the Good Samaritan has just as much meaning to whites and Negroes alike in the South as it has to citizens of other sections of the Nation.

Negroes vote in great numbers in the State of Louisiana because white men and women were content that it should be so. While there has been considerable resistance to colored registration in some areas, there has been active pressure on the part of some of the outstanding and highly regarded white citizens of Louisiana to assure that qualified Negroes should be registered and that they should vote.

Today, approximately 14 percent of the registration in Louisiana is colored voters. In view of the fact that illiteracy is highest among the Negro race, it is apparent that at least half of the job of qualifying Negro voters has been accomplished. Everyone recognizes the importance of the colored man voting, if he is to receive his share of benefits which a government is capable of bestowing upon its citizens. This increase in Negro registration was achieved without even the Civil Rights Act of 1957.

I, for one, could point to a great number of examples in my own community, I recall very well that prior to the registration of large numbers of Negroes in East Baton Rouge Parish, where the State Capitol is located, very little public improvements in the way of pavements, sidewalks, sanitary sewerage, street lights, and so forth, were directed toward the areas where the colored population was concentrated. After large numbers of Negroes were registered and began to vote, all of this changed. Today, many of the best streets, sidewalks, and other facilities are located in those same areas.

Mind you, Mr. President, this was not accomplished by any Supreme Court decision. It was accomplished because the whites of the community were willing to accept the colored voter upon the basis of equality.

Mr. GRUENING. Mr. President, will the Senator yield for a question, with the understanding that he will not lose the floor?

Mr. LONG of Louisiana. I yield.

Mr. GRUENING. Will the Senator be kind enough to inform those of us who may have other engagements how long he intends to continue?

Mr. LONG of Louisiana. I cannot inform the Senator exactly how long I expect to talk.

Mr. GRUENING. Can the Senator tell us approximately how long?

Mr. LONG of Louisiana. I should like to speak for a while. If the Senator does not care to hear my presentation, he is privileged to leave.

Mr. GRUENING. I always enjoy hearing the Senator.

Mr. LONG of Louisiana. I thank the Senator. His remark is more than I deserve.

A few years ago a colored citizen ran for the school board and, although he was not elected, he received a very substantial vote and also a respectable vote in boxes in which no Negro voters were registered. Furthermore, in that community, as well as the majority of communities in Louisiana, funds for new school construction were being concentrated on equalizing school facilities for the benefit of colored children. While the Negroes numbered only one-third of the population, more than half of the funds available for school construction was being directed toward schools for Negroes.

Now let us see how some of the misguided efforts of northerners to assist our colored voters has worked out. Recently, in the same community, and after the Supreme Court decision, there occurred a race for district attorney. The candidate who ran first in the first primary received an overwhelming majority of the votes in boxes where the Negro vote was the heaviest. In the runoff he was overwhelmingly defeated. The same thing more recently happened with regard to a race for city judge. Anyone who is familiar with the political situation could see what had happened in those two cases. The fact that a candidate had received overwhelming support from the Negroes caused vast numbers of whites to vote against him in the runoff. Far from helping him, the overwhelming colored vote that the candidate received in the first primary dictated his defeat in the runoff.

Again, a similar case occurred in the recent Democratic gubernatorial primary held in Louisiana. The leader in the first primary collected a large majority of the colored vote; he was defeated in the runoff for the Democratic nomination for Governor.

In prior years, the Negro vote was no such liability. As a matter of fact, some years before, a candidate for reelection as sheriff was regarded as almost a certainty to be successful. When the election occurred, he was overwhelmingly defeated. It was the first election in which large numbers of Negroes had voted. Judging from the returns, it appeared that the Negroes had voted almost unanimously against the incumbent.

White citizens of the community did not resent the outcome in any respect, because they recalled rumors of the beating of Negro prisoners to obtain confessions. The majority of whites felt that the defeat of their sheriff was probably a step toward better government to which the overwhelming majority of Negro voters had contributed.

Prior to the Supreme Court decision on segregation, there was no organization in my community, nor anywhere else in Louisiana to my knowledge, directed toward resisting integration of the races, nor preserving segregation laws and customs. Today in almost every parish in Louisiana, white citizens councils have been organized. In many instances, we have had examples of white citizens boycotting other white citizens whom the former regarded as being overly sympathetic to the Negroes.

What I am trying to demonstrate to my colleagues is that the good will, sympathy, and cooperation of the white majority in the South is indispensable to the progress of the Negro citizen of that area. Little will be accomplished by laws which contribute to a movement that loses for the colored man the support and the assistance of the great numbers of influential southerners who have helped him in the past. It is for this reason that I urge my colleagues to recognize that their desire to benefit the Negroes of the South will be unsuccessful and will accomplish exactly the opposite of their intentions unless the laws they pass make sense and appear to be just and fair to a substantial segment of the white majority of the area.

Very little indeed will be accomplished by having the Attorney General of the United States file lawsuits against white southerners at the expense of the Federal Government, if this results in an accelerated trend toward white voters rejecting any candidate for public office who shows sympathy for the problems of the colored man.

Very little will be accomplished by securing the right of ballot for a colored man if it is followed by State laws which impose educational qualifications on voting beyond the ability of the colored voters to comply.

I plead with my colleagues from the North, East, and West—do not force upon the South laws that will further separate well-meaning southerners from the Negro minority which has benefited greatly from the assistance of those people.

In Louisiana the relationship between the Negroes and the whites was very good at the time the Supreme Court took upon itself the unprecedented power and authority to decree social judgments. Our Nation only grew to greatness because it was peopled initially by those who came to escape the kind of personal judgments on humanity which was exercised by this unanimous judgment of nine men.

Until it is explained in terms of how it was reached, this judgment will remain for me an outstanding mystery of this age.

What we have to deal with now is the situation created in large part by this decision. Those of us who are Members of the Senate representing Southern States can no more avoid dealing with this issue than can our colleagues representing the so-called Northern States. It would appear rather unnecessary to state that those of us who represent the States in which the supposed evil exists—which it is alleged should now be stamped out—should know more about it than our colleagues from States who seem so determined to point the finger of guilt. I have pointed out in previous discussions where situations worse than ours exist.

When I look at conditions in my native State, I find no quarrel with the manner in which events were developing between the white and colored races at the time the Supreme Court handed down its school desegregation creed on May 17, 1954. There was a growing understanding between white and colored citizens that their color was not the determining factor in their accomplishment. In the name of justice and in the name of our Constitution, the Supreme Court said, in effect, that it was impossible for a colored child to be given an opportunity in a public school which was composed solely of students of his own race. Certainly those of us who have grown up in the South with no prejudice and with much understanding could never agree with this judgment.

All my personal recollections are that I felt a great pleasure in observing the accomplishments of colored citizens in Louisiana. I had occasion to be helpful to many of them. I hope to be helpful to many in the future, also.

Yet, in the past few years since the school desegregation decision, there has been more and more reaction against measures to cooperate in advancing the Negro. This is the same reaction and the same feeling that free men everywhere have experienced when attempts were made by law to legislate their personal judgments.

In the almost 2 months of debate on the so-called civil rights measures, I do not believe that a single Member of the Senate has in the course of the discussion asserted that the position of the colored citizens in the Southern States was deteriorating.

They all know that the facts are directly contrary. In no single period in this country's history, or in the history of any other country of which I have knowledge, was so much progress made in improving the conditions of a minority group and in proving the acceptability of accomplishments made by a group in the community which was advancing from an inferior position.

Mr. President, I think that we witnessed a sad spectacle during the past 2 months. I hope that those of us who were born in the South and who represent it in the Nation's Capital will not again see an application of the methods that were employed here in the Senate used for a similar purpose.

To express this hope may seem to be bold and even a foolish statement. If it is, I can only say that it is based upon my own fundamental belief in the essential justice and sympathetic understanding of my colleagues. It has ever been in history that those who chased supposed evil often found themselves going too far in their efforts to stamp it out, and those who press upon us new legislative acts today are, in my opinion, already far beyond in their own thinking what they really wish to see accomplished.

They seem to be borne on and on by elements in the past which never really existed in the manner they have come to believe and which certainly today are not in existence.

The South is not a vast slave area and its white citizens are not dedicated to the suppression of its black citizens. More than anywhere else in the Nation, we in the South know that we must continue to live with the problems created

by the many differences in the ways of life of these two groups.

In closing this debate, Mr. President, I do so in the fervent hope that we are forever closing the door against force legislation that can only ultimately harm those it is supposed to help.

Mr. KEFAUVER. Mr. President, I stated 1 month ago—on March 14—that I would vote for a civil rights bill which contained measures designed to strengthen the right of every qualified citizen in this Nation to vote.

It was my feeling at that time that such a bill would evolve from the long hours of debate and the hard work of those who have aimed for this objective from the time when this legislation came before the Senate on February 15. This has been my objective.

I shall, therefore, vote for this bill—the Civil Rights Act of 1960. I shall do so because I believe it is reasonable, constructive, and morally right. It contains the three elements which, from the beginning, I have said it should contain.

It is primarily a voting rights bill. I have always been of the opinion, and shall continue to be of the opinion, that all qualified citizens—regardless of race or color—should have the right freely to register and vote. This bill strengthens the basic right, and its provisions on this subject are workable and fair.

The bill also has provisions outlawing hate-bombings and enforcing compliance with court orders, whether in the civil rights field or across the board.

I believe that from the beginning of this 8 weeks' debate, the Senate has wanted a moderate bill with these three elements. Consequently, it has rejected out of hand such far-ranging items as a new FEPC, the old title III of the act of 1957, and a number of other extraneous provisions.

The bill as it passed the House has been improved by a number of amendments. I was particularly anxious to have adopted an amendment to the voting provisions which would have assured that proceedings before voting referees would take place in public. Although my amendment was modified to specify only that the judge should set the time and place of such hearings, this is a considerable improvement over the language in the House version of the bill, and should prevent abuse of anyone's rights.

I believe the result of my efforts has been to insure the rights of public officials, without in any way impeding the rights of those who enter complaints against such officials.

The passage of this constructive bill has taken considerable time. Its passage has been achieved without a resumption of the filibuster which met the administration bill which was introduced and originally was debated in the Senate.

We were able to reach agreement on the House version of the bill without bypassing the Judiciary Committee and without taking the extreme measure of closing the debate through a cloture petition. To my way of thinking, this is a real accomplishment. It indicates that both sides are willing to be reasonable and, in the final analysis, want to avoid needless heightening of racial tensions.

Mr. McCARTHY. Mr. President, I ask unanimous consent that remarks prepared by the Senator from Minnesota [Mr. HUMPHREY] on the civil rights bill may be printed in the RECORD preceding the vote on that bill.

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

STATEMENT BY SENATOR HUMPHREY

After 2 long months of debate the Senate is about to pass the pending civil rights bill.

It is my intention to support this bill on final passage, but I must candidly state that the bill falls far short of my hopes and expectations. As the debate has worn on the bill has been made weaker and weaker. The proponents of civil rights who have sought to strengthen the bill have been defeated on vote after vote. The bill as it now stands cannot be heralded as any great triumph for protection of civil rights of Negro citizens.

In the Senate on March 3 I set down what I considered as the minimum provisions of a meaningful civil rights bill this year as follows:

1. A declaration of support for the Supreme Court school desegregation decisions and the provision of step-by-step assistance to the States and local governmental bodies to aid in implementing desegregation.

2. Granting to the Attorney General authority to bring suits on behalf of individuals whose civil rights under the Constitution of the United States are violated.

3. Voting right protection for disfranchised Negroes by way of Presidentially appointed registrars in accordance with the recommendation of the Civil Rights Commission.

I deeply regret that the Senate did not include these provisions in the civil rights bill.

The bill before us contains six titles. But let no one be led to believe that the number of titles indicates great strides forward. The first five titles are of relatively minor import. The heart of the bill is title VI, which provides for court-appointed referees to register disfranchised Negroes.

In my judgment, it would have been far more desirable to have provided for Presidentially appointed registrars, as recommended by the Civil Rights Commission and as provided for in legislation such as I introduced in this body.

Many, including myself, have grave doubts that any significant number of Negroes will ever get to vote under this present bill. Anyone who sits down and reads this bill knows how complicated the procedure is which a disfranchised Negro is required to follow before he ever gets to the polls and has his vote counted. Even the esteemed lawyers who serve in this body do not seem to agree as to what the voting rights section provides. There is general agreement only on one thing—the machinery is very complex.

However, despite my disappointment over the rejection of the much simpler and less cumbersome registrar proposals, I am willing to give this referee proposal a chance to prove itself.

If, however, this bill fails in its avowed purpose of enabling any significant number of Negroes to vote due to legal redtape, those of us who have advocated civil rights legislation for so many years shall call for the passage of more effective measures.

The obligation of the Congress lies not only in the area of voting rights. We must take appropriate action to guarantee to every American, regardless of race, color, or religion, the basic rights as guaranteed in the Constitution. I am confident that the people in the coming November elections will elect a Congress and an administration which will move promptly and vigorously in this field.

The PRESIDING OFFICER (Mr. McGEE in the chair). The question is on the passage of the bill. The yeas and nays have been ordered, and the clerk will call the roll.

The Chief Clerk called the roll.

Mr. HENNINGS. I announce that the Senator from Oklahoma [Mr. KERR] and the Senator from Montana [Mr. MANSFIELD] are absent on official business.

I also announce that the Senator from Connecticut [Mr. DODD] is absent because of illness.

I further announce that the Senator from Minnesota [Mr. HUMPHREY] and the Senator from Wyoming [Mr. O'MAHONEY] are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut [Mr. DODD], the Senator from Minnesota [Mr. HUMPHREY], the Senator from Oklahoma [Mr. KERR], the Senator from Montana [Mr. MANSFIELD], and the Senator from Wyoming [Mr. O'MAHONEY], would each vote "yea."

Mr. KUCHEL. I announce that the Senator from Vermont [Mr. AIKEN] is absent on official business.

The Senator from Colorado [Mr. ALLOT], the Senators from Kansas [Mr. SCHOEPPEL and Mr. CARLSON], and the Senator from Arizona [Mr. GOLDWATER] are necessarily absent.

The Senator from Idaho [Mr. DWORSHAK] is absent on official business attending a meeting of the Air Force Academy.

If present and voting, the Senator from Vermont [Mr. AIKEN], the Senator from Colorado [Mr. ALLOTT], the Senators from Kansas [Mr. SCHOEPPEL and Mr. CARLSON], the Senator from Idaho [Mr. DWORSHAK], and the Senator from Arizona [Mr. GOLDWATER] would each vote "yea."

The result was announced—yeas 71, nays 18, as follows:

[No. 164]

YEAS—71

Anderson	Fong	Magnuson
Bartlett	Frear	Martin
Beall	Gore	Monroney
Bennett	Green	Morse
Bible	Gruening	Morton
Bridges	Hart	Moss
Brunsdale	Hartke	Mundt
Bush	Hayden	Murray
Butler	Hennings	Muskie
Byrd, W. Va.	Hickenlooper	Pastore
Cannon	Hruska	Prouty
Capehart	Jackson	Proxmire
Carroll	Javits	Randolph
Case, N.J.	Johnson, Tex.	Saltonstall
Case, S. Dak.	Keating	Scott
Chavez	Kefauver	Smith
Church	Kennedy	Symington
Clark	Kuchel	Wiley
Cooper	Lausche	Williams, Del.
Cotton	Long, Hawaii	Williams, N.J.
Curtis	Lusk	Yarborough
Dirksen	McCarthy	Young, N. Dak.
Douglas	McGee	Young, Ohio
Engle	McNamara	

NAYS—18

Byrd, Va.	Holland	Russell
Eastland	Johnston, S.C.	Smathers
Ellender	Jordan	Sparkman
Ervin	Long, La.	Stennis
Fulbright	McClellan	Talmadge
Hill	Robertson	Thurmond

NOT VOTING—11

Aiken	Dworshak	Mansfield
Allott	Goldwater	O'Mahoney
Carlson	Humphrey	Schoeppel
Dodd	Kerr	

So the bill (H.R. 8601) was passed.

Mr. DIRKSEN. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. JOHNSON of Texas. Mr. President, I move to lay on the table the motion to reconsider.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that House bill 8601, just passed by the Senate, be printed with all the Senate amendments thereto numbered.

The PRESIDING OFFICER Without objection, it is so ordered.

Mr. STENNIS. Mr. President, will the Senator from Texas request that the bill, as amended, be printed in the RECORD?

Mr. JOHNSON of Texas. Yes.

Mr. President, I ask unanimous consent that House bill 8601, as amended by the Senate, be printed in the RECORD immediately following a memorandum and a compilation of the yea-and-nay votes on the bill which I submit. There were 43 yea-and-nay votes in connection with the bill, and they show the unmistakable fact that a substantial majority of the Senate in each instance had its opinion prevail. Therefore, I have asked unanimous consent that a memorandum and a compilation of the yea-and-nay votes, beginning with vote No. 16, and continuing through vote No. 65, be printed at this point in the RECORD; and that immediately thereafter, House bill 8601, as amended by the Senate, be printed in the RECORD.

There being no objection, the memorandum, compilation, and bill were ordered to be printed in the RECORD, as follows:

MEMORANDUM

1. Liberals or conservatives have the unquestioned right to criticize the civil rights bill as being too weak or too strong. Nobody would deny them this right.

2. But it should be made absolutely clear that in criticizing the bill they are criticizing the Senate itself. The facts are that every conceivable civil rights proposal had a fair day in court and was either adopted or rejected by a majority vote. The bill that has emerged is the handiwork of the majority of the Senate itself.

3. The critics of the bill are going to drum up various reasons why the bill fell short of their expectations or went further than they would like to go. But these reasons are completely beside the point. Anyone who is dissatisfied with the bill must trace his dissatisfaction to one source—he could not muster enough votes among 100 Senators representing all parts of the country to secure adoption of his viewpoint.

4. There can be no objection to anyone who wants to "educate" the public and try to win majority acquiescence to his views. But he must bear in mind the fact that the bill is what it is today simply because a majority of the Senate thought that this is the way it should be.

COMPILATION OF CIVIL RIGHTS VOTES, 1960

Vote No. 16, Russell motion to postpone further consideration of H.R. 8315 until February 23, 1960: Yeas 28, nays 61, not voting 11.

Vote No. 17, discharge resolution (final passage), Senate Resolution 273, a resolution to discharge under certain conditions the Committee on the Judiciary from further consideration of the Senate bill 2391, a civil rights measure: Yeas 4, nays 68, not voting 28.

Vote No. 20, on Johnson motion that the Senate adjourn at 5 o'clock Monday, February 29, 1960: Yeas 10, nays 67, not voting 23.

Vote No. 21, on Morse motion that the Senate adjourn at 8 p.m., March 1, 1960: Yeas 6, nays 55, not voting 39.

Vote No. 22, on Johnson motion that the Sergeant at Arms be directed to request the attendance of absentee Senators: Yeas 55, nays 5, not voting 40.

Vote No. 23, Johnson motion to request absentee Senators: Yeas 62, nays 7, not voting 31.

Vote No. 23, Johnson motion to table Ellender motion to adjourn Senate until 12 o'clock noon, March 2, 1960: Yeas 64, nays 6, not voting 30.

Vote No. 25, Johnson motion to table Ervin motion to adjourn Senate until 12 o'clock noon, March 3, 1960: Yeas 65, nays 7, not voting 28.

Vote No. 26, Johnson motion to table Long amendment: Yeas 64, nays 8, not voting 28.

Vote No. 27, Johnson motion to request absentee Senators: Yeas 56, nays 1, not voting 43.

Vote No. 28, Johnson motion to proceed to consideration of executive business: Yeas 56, nays 0, not voting 44.

Vote No. 29, Johnson motion to request absentee Senators: Yeas 52, nays 0, not voting 48.

Vote No. 30, Johnson motion to request absentee Senators: Yeas 56, nays 2, not voting 42.

Vote No. 31, Johnson motion to request absentee Senators: Yeas 53, nays 3, not voting 44.

Vote No. 32, Johnson motion to request absentee Senators: Yeas 53, nays 3, not voting 44.

Vote No. 33, Johnson motion Senate adjourn 4:05, March 8, 1960, to establish new legislative day: Yeas 53, nays 4, not voting 43.

Vote No. 34, cloture petition: Yeas 42, nays 53, not voting 4.

Vote No. 35, Johnson motion to table the Case of South Dakota amendment (to the Ervin amendment): Yeas 55, nays 38, not voting 6.

Vote No. 36, Ervin amendment to the first section of the amendment, in the nature of a substitute, offered by Senator DIRKSEN: Yeas 89, nays 0, not voting 10.

Vote No. 37, Lausche amendment to section 1 of the Dirksen substitute (the administration bill) (across-the-board court orders): Yeas 65, nays 19, not voting 15.

Vote No. 38, Morse motion to table section 1 of the Dirksen substitute, as amended: Yeas 49, nays 35, not voting 15.

Vote No. 39, Goldwater (and five others) amendment (to sec. 2 of the Dirksen substitute), antibombing section: Yeas 85, nays 1, not voting 13.

Vote No. 40, Keating amendment (to sec. 2 of the Dirksen substitute), antibombing section: Yeas 87, nays 0, not voting 12.

Vote No. 41, vote on section 2 of the Dirksen substitute, as amended: Yeas 86, nays 1, not voting 12.

Vote No. 42, Dirksen motion to table Douglas-Javits amendment (to sec. 3 of Dirksen substitute): Yeas 53, nays 24, not voting 22.

Vote No. 43, Johnson motion that Senate recess until 12 noon on March 24, 1960: Yeas 85, nays 1, not voting 14.

Vote No. 44, Morse motion to table the Clark-Javits (and 11 others) amendment to section 3 of the Dirksen (administration) proposal: Yeas 51, nays 43, not voting 6.

Vote No. 45, Eastland motion to refer H.R. 8601 to Senate Judiciary Committee: Yeas 19, nays 72, not voting 9.

Vote No. 46, Johnson motion to refer H.R. 8601, the House-passed civil rights bill, to the Senate Judiciary Committee with instructions to report back by Tuesday, March 29, 1960: Yeas 86, nays 5, not voting 9.

Vote No. 54, Johnson motion that the Senate proceed to the consideration of H.R. 8601: Yeas 71, nays 17, not voting 12.

Vote No. 55, vote on committee amendment to H.R. 8601 across-the-board court orders: Yeas 68, nays 20, not voting 12.

Vote No. 56, Carroll amendment (to the committee-Kefauver amendment) to require, under the revised referee plan, that the applicant be given an ex parte hearing at such times and places as the court shall direct: Yeas 69, nays 22, not voting 9.

Vote No. 57, Dirksen motion to table equal job opportunity amendment: Yeas 48, nays 38, not voting 14.

Vote No. 58, Mansfield motion to table Keating financial assistance amendment: Yeas 61, nays 30, not voting 9.

Vote No. 59, Dirksen tabling motion of Javits intervention amendment: Yeas 56, nays 34, not voting 10.

Vote No. 60, Dirksen motion to table Hart amendment: Yeas 52, nays 38, not voting 10.

Vote No. 61, Dirksen tabling motion of Hennings amendment: Yeas 58, nays 26, not voting 16.

Vote No. 62, Ervin-McClellan rules of procedure amendment: Yeas 29, nays 64, not voting 7.

Vote No. 63, Kuchel motion to table Ervin amendment, limiting the voting rights section to candidates for Congress (instead of applying the right to all elections): Yeas 72, nays 16, not voting 12.

Vote No. 64, Dirksen motion to table Johnston (S.C.) amendment, limiting the right to vote to general elections in lieu of special primary, and general elections: Yeas 68, nays 18, not voting 14.

Vote No. 65, Dirksen motion to table Carroll amendment: Yeas 62, nays 32, not voting 6.

H.R. 8601

An act to enforce constitutional rights, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Act of 1960".

TITLE I

Obstruction of court orders

SEC. 101. Chapter 73 of title 18, United States Code, is amended by adding at the end thereof a new section as follows:

"§ 1509. Obstruction of court orders

"Whoever, by threats or force, willfully prevents, obstructs, impedes, or interferes with, or willfully attempts to prevent, obstruct, impede, or interfere with, the due exercise of rights or the performance of duties under any order, judgment, or decree of a court of the United States, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"No injunctive or other civil relief against the conduct made criminal by this section shall be denied on the ground that such conduct is a crime."

SEC. 102. The analysis of chapter 73 of such title is amended by adding at the end thereof the following:

"1509. Obstruction of court orders."

TITLE II

Flight to avoid prosecution for damaging or destroying any building or other real or personal property; and, illegal transportation, use or possession of explosives; and, threats or false information concerning attempts to damage or destroy real or personal property by fire or explosives

SEC. 201. Chapter 49 of title 18, United States Code, is amended by adding at the end thereof a new section as follows:

"§ 1074. Flight to avoid prosecution for damaging or destroying any building or other real or personal property

"(a) Whoever moves or travels in interstate or foreign commerce with intent either (1) to avoid prosecution, or custody, or confinement after conviction, under the laws of the place from which he flees, for willfully attempting to or damaging or destroying by fire or explosive any building, structure, facility, vehicle, dwelling house, synagogue, church, religious center or educational institution, public or private, or (2) to avoid giving testimony in any criminal proceeding relating to any such offense shall be fined not more than $5,000 or imprisoned not more than five years, or both.

"(b) Violations of this section may be prosecuted in the Federal judicial district in which the original crime was alleged to have been committed or in which the person was held in custody or confinement: *Provided, however,* That this section shall not be construed as indicating an intent on the part of Congress to prevent any State, Territory, Commonwealth, or possession of the United States of any jurisdiction over any offense over which they would have jurisdiction in the absence of such section."

SEC. 202. The analysis of chapter 49 of such title is amended by adding thereto the following:

"1074. Flight to avoid prosecution for damaging or destroying any building or other real or personal property."

SEC. 203. Chapter 39 of title 18 of the Untied States Code is amended by adding at the end thereof the following new section:

"§ 837. Explosives; illegal use or possession; and, threats or false information concerning attempts to damage or destroy real or personal property by fire or explosives

"(a) As used in this section—

" 'commerce' means commerce between any State, Territory, Commonwealth, District, or possession of the United States, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or within any Territory, or possession of the United States, or the District of Columbia;

" 'explosive' means gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuzes (other than electric circuit breakers) detonators, and other detonating agents, smokeless powders, and any chemical compounds or mechanical mixture that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities, or packing that ignition by fire, by friction, by concussion, by percussion, or by detonation of the compound or mixture or any part thereof may cause an explosion.

"(b) Whoever transports or aids and abets another in transporting in interstate or foreign commerce any explosive, with the knowledge or intent that it will be used to damage or destroy any building or other real or personal property for the purpose of interfering with its use for educational, religious, charitable, residential, business, or civic objectives or of intimidating any person pursuing such objectives, shall be subject to imprisonment for not more than one year, or a fine of not more than $1,000, or both; and if personal injury results shall be subject to imprisonment for not more than ten years or a fine of not more than $10,000, or both; and if death results shall be subject to imprisonment for any term of years or for life, but the court may impose the death penalty if the jury so recommends.

"(c) The possession of an explosive in such a manner as to evince an intent to use, or the use of, such explosive, to damage or destroy any building or other real or personal property used for educational, religious, charitable, residential, business, or civic objectives or to intimidate any person pursuing such objectives, creates rebuttable presumptions that the explosive was transported in interstate or foreign commerce or caused to be transported in interstate or foreign commerce by the person so possessing or using it, or by a person aiding or abetting the person so possessing or using it: *Provided, however,* That no person may be convicted under this section unless there is evidence independent of the presumptions that this section has been violated.

"(d) Whoever, through the use of the mail, telephone, telegraph, or other instrument of commerce, willfully imparts or conveys, or causes to be imparted or conveyed, any threat, or false information knowing the same to be false, concerning an attempt or alleged attempt being made, or to be made, to damage or destroy any building or other real or personal property for the purpose of interfering with its use for educational, religious, charitable, residential, business, or civic objectives, or of intimidating any person pursuing such objectives, shall be subject to imprisonment for not more than one year or a fine of not more than $1,000, or both.

"(e) This section shall not be construed as indicating an intent on the part of Congress to occupy the field in which this section operates to the exclusion of a law of any State, Territory, Commonwealth, or possession of the United States, and no law of any State, Territory, Commonwealth, or possession of the United States which would be valid in the absence of the section shall be declared invalid, and no local authorities shall be deprived of any jurisdiction over any offense over which they would have jurisdiction in the absence of this section."

SEC. 204. The analysis of chapter 39 of title 18 is amended by adding thereto the following:

"837. Explosives; illegal use or possession; and threats or false information concerning attempts to damage or destroy real or personal property by fire or explosives."

TITLE III

Federal election records

SEC. 301. Every officer of election shall retain and preserve, for a period of 22 months from the date of any general, special, or primary election of which candidates for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives, or Resident Commissioner from the Commonwealth of Puerto Rico are voted for, all records and papers which come into his possession relating to any application, registration, payment of poll tax, or other act requisite to voting in such election, except that, when required by law, such records and papers may be delivered to another officer of election and except that, if a State or the Commonwealth of Puerto Rico designates a custodian to retain and preserve these records and papers at a specified place, then such records and papers may be deposited with such custodian, and the duty to retain and preserve any record or paper so deposited shall devolve upon such custodian. Any officer of election or custodian who willfully fails to comply with this section shall be fined not more than $1,000 or imprisoned not more than one year, or both.

SEC. 302. Any person, whether or not an officer of election or custodian, who willfully steals, destroys, conceals, mutilates, or alters any record or paper required by section 301 to be retained and preserved shall be fined not more than $1,000 or imprisoned not more than one year, or both.

SEC. 303. Any record or paper required by section 301 to be retained and preserved shall, upon demand in writing by the Attorney General or his representatives directed to the person having custody, possession, or control of such record or paper, be made available for inspection, reproduction, and copying at the principal office of such custodian, by the Attorney General or his representative. This demand shall contain a statement of the basis and the purpose therefor.

SEC. 304. Unless otherwise ordered by a court of the United States, neither the Attorney General nor any employee of the Department of Justice, nor any other representative of the Attorney General, shall disclose any record or paper produced pursuant to this title, or any reproduction or copy, except to Congress and any committee thereof, governmental agencies, and in the presentation of any case or proceeding before any court or grand jury.

SEC. 305. The United States district court for the district in which a demand is made pursuant to section 303, or in which a record or paper so demanded is located, shall have jurisdiction by appropriate process to compel the production of such record or paper.

SEC. 306. As used in this title, the term "officer of election" means any person who, under color of any Federal, State, Commonwealth, or local law, statute, ordinance, regulation, authority, custom, or usage, performs or is authorized to perform any function, duty, or task in connection with any application, registration, payment of poll tax, or other act requisite to voting in any general, special, or primary election at which votes are cast for candidates for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives, or Resident Commissioner from the Commonwealth of Puerto Rico.

TITLE IV

Extension of powers of Civil Rights Commission

SEC. 401. Section 105 of the Civil Rights Act of 1957 (42 U.S.C. Supp. V 1975d) (71 Stat. 635) is amended by adding the following new subsection at the end thereof:

"(h) Without limiting the generality of the foregoing, each member of the Commission shall have the power and authority to administer oaths or take statements of witnesses under affirmation."

TITLE V

Education of children of members of Armed Forces

SEC. 501. (a) Subsection (a) of section 6 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as amended, relating to arrangements for the provision of free public education for children residing on Federal property where local educational agencies are unable to provide such education, is amended by inserting after the first sentence the following new sentence: "Such arrangements to provide free public education may also be made for children of members of the Armed Forces on active duty, if the schools in which free public education is usually provided for such children are made unavailable to them as a result of official action by State or local governmental authority and it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational

agency is able to provide suitable free public education for such children."

(b) (1) The first sentence of subsection (d) of such section 6 is amended by adding before the period at the end thereof: "or, in the case of children to whom the second sentence of subsection (a) applies, with the head of any Federal department or agency having jurisdiction over the parents of some or all of such children".

(2) The second sentence of such subsection (d) is amended by striking out "Arrangements" and inserting in lieu thereof "Except where the Commissioner makes arrangements pursuant to the second sentence of subsection (a), arrangements".

SEC. 502. Section 10 of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), as amended, relating to arrangements for facilities for the provision of free public education for children residing on Federal property where local educational agencies are unable to provide such education, is amended by inserting after the first sentence the following new sentence: "Such arrangements may also be made to provide, on a temporary basis, minimum school facilities for children of members of the Armed Forces on active duty, if the schools in which free public education is usually provided for such children are made unavailable to them as a result of official action by State or local governmental authority and it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children."

TITLE VI

SEC. 601. That section 2004 of the Revised Statutes (42 U.S.C. 1971), as amended by section 131 of the Civil Rights Act of 1957 (71 Stat. 637), is amended as follows:

(a) Add the following as subsection (e) and designate the present subsection (e) as subsection "(f)":

"In any proceeding instituted pursuant to subsection (c) in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a), the court shall upon request of the Attorney General and after each party has been given notice and the opportunity to be heard make a finding whether such deprivation was or is pursuant to a pattern or practice. If the court finds such pattern or practice, any person of such race or color resident within the affected area shall, for one year and thereafter until the court subsequently finds that such pattern or practice has ceased, be entitled, upon his application therefor, to an order declaring him qualified to vote, upon proof that at any election or elections (1) he is qualified under State law to vote, and (2) he has since such finding by the court been (a) deprived of or denied under color of law the opportunity to register to vote or otherwise to qualify to vote, or (b) found not qualified to vote by any person acting under color of law. Such order shall be effective as to any election held within the longest period for which such applicant could have been registered or otherwise qualified under State law at which the applicant's qualifications would under State law entitle him to vote.

"Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any such election. The Attorney General shall cause to be transmitted certified copies of such order to the appropriate election officers. The refusal by any such officer with notice of such order to permit any person so declared qualified to vote to vote at an appropriate election shall constitute contempt of court.

"An application for an order pursuant to this subsection shall be heard within ten days, and the execution of any order disposing of such application shall not be stayed if the effect of such stay would be to delay the effectiveness of the order beyond the date of any election at which the applicant would otherwise be enabled to vote.

"The court may appoint one or more persons who are qualified voters in the judicial district, to be known as voting referees, who shall subscribe to the oath of office required by Revised Statutes, section 1757 (5 U.S.C. 16), to serve for such period as the court shall determine, to receive such applications and to take evidence and report to the court findings as to whether or not at any election or elections (1) any such applicant is qualified under State law to vote, and (2) he has since the finding by the court heretofore specified been (a) deprived of or denied under color of law the opportunity to register to vote or otherwise to qualify to vote, or (b) found not qualified to vote by any person acting under color of law. In a proceeding before a voting referee, the applicant shall be heard ex parte at such times and places as the court shall direct. His statement under oath shall be prima facie evidence as to his age, residence, and his prior efforts to register or otherwise qualify to vote. Where proof of literacy or an understanding of other subjects is required by valid provisions of State law, the answer of the applicant, if written, shall be included in such report to the court; if oral, it shall be taken down stenographically and a transcription included in such report to the court.

"Upon receipt of such report, the court shall cause the Attorney General to transmit a copy thereof to the State attorney general and to each party to such proceeding together with an order to show cause within ten days, or such shorter time as the court may fix, why an order of the court should not be entered in accordance with such report. Upon the expiration of such period, such order shall be entered unless prior to that time there has been filed with the court and served upon all parties a statement of exceptions to such report. Exceptions as to matters of fact shall be considered only if supported by a duly verified copy of a public record or by affidavit of persons having personal knowledge of such facts or by statements or matters contained in such report; those relating to matters of law shall be supported by an appropriate memorandum of law. The issues of fact and law raised by such exceptions shall be determined by the court, or, if the due and speedy administration of justice requires, they may be referred to the voting referee to determine in accordance with procedures prescribed by the court. A hearing as to an issue of fact shall be held only in the event that the proof in support of the exception disclose the existence of a genuine issue of material fact. The applicant's literacy and understanding of other subjects shall be determined solely on the basis of answers included in the report of the voting referee.

"The court, or at its direction the voting referee, shall issue to each applicant so declared a certificate identifying the holder thereof as a person so qualified.

"Any voting referee appointed by the court pursuant to this subsection shall to the extent not inconsistent herewith have all the powers conferred upon a master by rule 53(c) of the Federal Rules of Civil Procedure. The compensation to be allowed to any persons appointed by the court pursuant to this subsection shall be fixed by the court and shall be payable by the United States.

"Applications pursuant to this subsection shall be determined expeditiously. In the case of any application filed twenty or more days prior to an election which is undetermined by the time of such election, the court shall issue an order authorizing the applicant to vote provisionally: *Provided, however,* That such applicant shall be qualified to vote under State law. In the case of an application filed within twenty days prior to an election, the court, in its discretion, may make such an order. In either case the order shall make appropriate provision for the impounding of the applicant's ballot pending determination of the application. The court may take any other action, and may authorize such referee or such other person as it may designate to take any other action, appropriate or necessary to carry out the provisions of this subsection and to enforce its decrees. This subsection shall in no way be construed as a limitation upon the existing powers of the court.

"When used in the subsection, the word 'vote' includes all action necessary to make a vote effective, including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words 'affected area' shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a); and the words 'qualified under State law' shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist."

(b) Add the following sentence at the end of subsection (c):

"Whenever, in a proceeding instituted under this subsection any official of a State or subdivision thereof is alleged to have committed any act or practice constituting a deprivation of any right or privilege secured by subsection (a), the act or practice shall also be deemed that of the State and the State may be joined as a party defendant and, if, prior to the institution of such proceeding, such official has resigned or has been relieved of his office and no successor has assumed such office, the proceeding may be instituted against the State."

TITLE VII

Separability

SEC. 701. If any provision of this Act is held invalid, the remainder of this Act shall not be affected thereby.

Mr. JOHNSON of Texas. Mr. President, I wish to say that there is nothing that I could add to what has already been said with regard to the measure just passed by the Senate.

I do want all my colleagues to know that I am very grateful to each one of them for their understanding, their courtesy, and their patience; and I am particularly grateful to the distinguished minority leader, the Senator from Illinois [Mr. DIRKSEN], for his complete cooperation at all times, and also for the undeserved statements he made regarding me.

Mr. DIRKSEN. Mr. President, before the distinguished senior Senator from Georgia [Mr. RUSSELL] leaves the Chamber, I just wish to salute a great parliamentarian, a great captain, a worthy antagonist, and a man of deep

conviction, whom I have learned to admire and to revere in 25 years of legislative service. My respect and my admiration for him are greater today than they ever were before.

Mr. RUSSELL. Mr. President, I deeply appreciate the very kind comments of the distinguished Senator from Illinois. I have met him as an adversary time and again over a period of 25 years. He is a tough but a fair fighter. He keeps all of his blows above the belt.

I am very grateful to him for the generous sentiments he has expressed, even though he wears the garlands of victory because of the passage of this bill, which I opposed as vigorously as I know how.

ORDER FOR CALL OF THE CALENDAR ON MONDAY

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that on Monday, at the conclusion of routine morning business, the bills and other measures on the calendar, beginning with Calendar No. 1242, be called, for the consideration of measures to which there is no objection.

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

ANNUAL AUDIT OF BRIDGE COMMISSION AND AUTHORITIES

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1109, Senate bill 1511, in order to make that bill the unfinished business.

The PRESIDING OFFICER. The bill will be stated by title, for the information of the Senate.

The CHIEF CLERK. A bill (S. 1511) to provide for the annual audit of bridge commissions and authorities created by act of Congress, for the filling of vacancies in the membership thereof, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Texas?

There being no objection, the Senate proceeded to consider the bill (S. 1511), which had been reported from the Committee on Public Works with amendments.

STELLA REORGANIZED SCHOOLS, MISSOURI

Mr. RUSSELL. Mr. President, will the Senator from Texas yield to me?

Mr. JOHNSON of Texas. I yield.

Mr. RUSSELL. I wonder whether the Senator from Texas can advise the Senate as to when it might expect to resume the consideration of House bill 8315, the Stella School District bill?

Mr. JOHNSON of Texas. I am prepared to call it up now.

Mr. President, I ask unanimous consent that the Senate resume the consideration of Calendar No. 924, House bill 8315, the Stella School District bill.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate resumed the consideration of the bill (H.R. 8315) to authorize the Secretary of the Army to lease a portion of Fort Crowder, Mo., to Stella Reorganized Schools R–I, Missouri.

Mr. JOHNSON of Texas. Mr. President, I move that the Dirksen amendment to the bill be stricken out.

Mr. RUSSELL. Mr. President, I do not believe there is an amendment to the bill.

The PRESIDING OFFICER. The Chair is advised that an amendment to the bill is pending.

Mr. JOHNSON of Texas. I ask that the amendment be withdrawn.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MORSE. Mr. President, I realize the mood of the Senate; but I have pending an amendment to the bill, and I wish to discuss the amendment at some length, unless we can obtain an agreement that the bill can be amended so as to conform to the Morse formula. But at present the bill does not do so.

I have discussed this matter briefly before now. I do not think the difference between us is very great, except over the matter of principle.

My amendment provides that the value of the leasehold interest be appraised, and that the school district pay half the fair market value of the leasehold interest.

As I said once before during the debate on this matter, I think there are a good many offsets, and that the amount of money, if any, which the school district would owe the Federal Government would not be very great. In fact, it might even be a nominal amount.

But in its present form the bill clearly violates a principle for which I have fought in the Senate for many years; and I do not intend to let the bill be rushed through tonight without having adequate consideration given to my amendment and to a review of the problem involved in connection with it.

I have no objection to having the bill made the pending business; but I served notice of this matter on February 15, I believe.

However, I think we might obtain an agreement from the Senator from Georgia [Mr. RUSSELL], because during the debate on February 15, I believe we were almost in agreement that probably the school district would not have to pay anything by way of rent, after the offsets were taken care of.

But certainly a determination should be made as to whether the leasehold is of any remaining value to the Federal Government.

I should like to have the Senator from Georgia state what his view regarding this matter is.

Mr. RUSSELL. Mr. President, it would seem that the Stella School District bill is almost as controversial now as it was on February 15. So I suggest that the Senator from Texas withdraw his request.

Mr. JOHNSON of Texas. Mr. President, I have no desire to involve the Senate in controversy this evening. I thought the bill did not involve the Morse formula, and I understood that the Armed Services Committee felt that it would be proper to have the bill passed by the Senate.

However, if the Senator from Oregon objects to the passage of the bill at this time, then I intend to move that the bill be brought up at a later date, in view of the fact that the bill involves some rental payment.

Mr. MORSE. Mr. President, I do object to having the bill passed at this time, until there has been adequate discussion and consideration of this problem.

Mr. JOHNSON of Texas. Very well.

Mr. President, I ask unanimous consent that House bill 8315 be returned to the calendar.

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

ORDER FOR ADJOURNMENT TO MONDAY

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that when the Senate concludes its deliberations this evening it stand in adjournment until Monday at 12 o'clock noon.

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

CIVIL RIGHTS

Mr. BYRD of Virginia. Mr. President, I ask unanimous consent that there may be printed in the RECORD a statement prepared by me on the civil rights bill.

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

STATEMENT BY SENATOR BYRD

Now that the battle of the so-called civil rights bill is over in the Senate of the United States, I want to make this statement to the people of Virginia.

In my 28 years of service in the Senate I have never known such a determined effort to enact punitive legislation, most of which was unconstitutional and offensive to the South.

The debate has gone on for 2 months, and in one period the Senate was forced to meet around the clock for 125 consecutive hours in an effort to wear down the southern Senators.

Eighteen Senators were opposing 82.

In the main the result has been a victory for the South when the substance of the bill as passed is compared with the provisions of the original bill and the 40-odd amendments which were proposed.

Superbly led by Senator RICHARD B. RUSSELL, of Georgia, the southerners in the Senate demonstrated the effectiveness of courageous massive resistance. The opposition of southerners in the House of Representatives, led by Representative HOWARD W. SMITH, of Virginia, was equally resolute and formidable.

With our backs to the wall, the southerners withstood the power of the Federal Government, the political pressure of those States appealing to the Negro vote, and the propaganda of the facilities available to the NAACP. The more vicious proposals and the worst features of the administration bill were eliminated.

One of the most offensive provisions was a declaration by statute that the illegal Warren Court school decision was the supreme law of the land. This was defeated by a vote of more than two to one. Also defeated was the provision to bribe with Federal payments States or localities which, without opposition, would integrate public schools under the Warren decision.

Another defeated provision would have made it a felony to resist Federal court orders in school cases, and this was so loosely worded as perhaps to make those who have set up the private school system in Prince Edward County guilty of a felony.

The FEPC provision was defeated. The language of the so-called antibombing section was greatly modified; and so were the provisions for voting referees and preservation of voting records.

All in all, the southerners in Congress succeeded in defeating the most offensive provisions and modifying others in measurable degree. There were times in the debate when this appeared to be impossible.

Of course, the bill is still objectionable and all southerners voted against it, but to paraphrase Sir Winston Churchill, So few at such great odds have done so much for so many.

MEMORIAL SERVICE FOR THE LATE SENATOR NEUBERGER, OF OREGON

Mr. JOHNSON of Texas. Mr. President, on March 13 a group of our colleagues attended the memorial services for the late Senator Richard L. Neuberger in Portland, Oreg.

It was a moving service, one that was in keeping with the high character and the simple directness of our late colleague. Those who were present spoke of the tremendous work that Dick Neuberger had done for his country. They listed his many accomplishments and his dedication to the service of his fellow men. I ask unanimous consent that the transcribed text of the memorial service be printed in the body of the RECORD in memory of our colleague.

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

MEMORIAL SERVICES FOR THE LATE SENATOR RICHARD L. NEUBERGER, OF OREGON

Memorial services for the late Senator Richard L. Neuberger of Oregon were held Sunday, March 13, 1960, at Temple Beth Israel, in Portland, Oreg., with Rabbi Emanuel Rose officiating. Members of the committee of the U.S. Senate and the House of Representatives attending the services were the senior Senator from Texas, Mr. JOHNSON; the senior Senator from Oregon, Mr. MORSE; the senior Senator from Illinois, Mr. DOUGLAS; the senior Senator from Idaho, Mr. DWORSHAK; the junior Senator from Washington, Mr. JACKSON; the junior Senator from Kentucky, Mr. MORTON; the junior Senator from Idaho, Mr. CHURCH; the junior Senator from Texas, Mr. YARBOROUGH; the senior Senator from Alaska, Mr. BARTLETT; the junior Senator from Alaska, Mr. GRUENING; the junior Senator from Wyoming, Mr. MCGEE; Representative HENRY S. REUSS, of Wisconsin; Representatives WALTER NORBLAD, EDITH GREEN, CHARLES O. PORTER, and AL ULLMAN, all of Oregon. Also attending were Mesdames Church, Bartlett, and McGee.

Memorial addresses were delivered by Rabbi Emanuel Rose of Temple Beth Israel, the Honorable Mark O. Hatfield, Governor of the State of Oregon; the Honorable Lyndon B. Johnson, U.S. Senator from the State of Texas and majority leader of the U.S. Senate; the Honorable Robert D. Holmes, former Governor of the State of Oregon; the Honorable E. Palmer Hoyt, editor and publisher of the Denver Post of Denver, Colo.; the Honorable William O. Douglas, Associate Justice of the Supreme Court of the United States; the Honorable Paul H. Douglas, U.S. Senator from the State of Illinois; the Honorable Ernest Gruening, U.S. Senator from the State of Alaska; Dr. Richard M. Steiner, pastor of the First Unitarian Church of Portland, Oreg. Transcribed text of the ceremonies follows:

Rabbi Emanuel Rose: "Oh, God, who art our master of life and death, we know how limited is our wisdom, how short our vision. One by one the children of men passing along the road of life disappear from our view. We know that each of us must walk the same path to the doorway of the grave. We strain our eyes to see what lies beyond the gate, but all is darkness to our mortal sight. For Thee, oh God, the night shineth as the day, the darkness is even as the light. Into Thy gracious hands we commit the spirits of our dear ones who are gone from this earth, assured that Thou keepest faith with Thy children in death as in life. Sustain us, oh God, that we may meet with calm serenity the dark mysteries that lie ahead, knowing that when we walk through the valley of the shadow Thou art with us, Thou art our loving Father, and in Thee do we put our trust.

" 'The Lord is my Shepherd, I shall not want. He maketh me to lie down in green pastures, He leadeth me beside the still waters, He restoreth my soul, He guideth me in straight paths for His name's sake. Yea, though I walk through the valley of the shadow of death, I will fear no evil, for Thou art with me. Thy rod and Thy staff they comfort me. Thou preparest a table before me in the presence of mine enemies, Thou hast anointed my head with oil, my cup runneth over. Surely goodness and mercy shall follow me all the days of my life, and I shall dwell in the house of the Lord, forever.'

"Early one morn I had an interview with death. The place, a lonely dell where winter lingered and swathed in snow. In the sky a waning moon, one last star paling, prophetic of the dawn. A spirit prompted me to hail this heartless being. Said I in accents strained, as if to keep my courage up, 'Death of thee no one speaks well. Thy tread, though soft and silent, makes firesides tremble, and in thy presence, flowers die. No gleeful child is safe from thy all-withering touch, no parent dost thou spare, no lovers weaving life's threads of hope into fancies colored green. No saint in humble prayer. Why not content thyself with beasts of prey, why devastate our homes, oh death? I wish that thou were dead.' And then death replied, and filled me with amaze. His voice was even mild and sweet, and through the gloom I saw suggestion of a smile. 'I am God's servant, as thou art,' he said. 'The flock must be gathered home. I am sent to bring the wandering to their fold. I give to weary feet the gift of rest.' But I asked, 'Might not some brighter messenger be sent—an angel with music in his voice and laughter in his eyes? His coming would be welcome as to birds the coming spring, or opening day. Thou dost alarm us so, and make us die so often, dying once. If one we knew full well might come.' 'I understand you well,' said death, 'but this grimness thou alone dost see. The living never see me as I am. Only the dying see death. What life is to the living, death is to the dead. I am a mask. The angel thou hath asked for is behind. Sometimes 'tis sainted mother, sometimes sainted father, sometimes parted lover. Only to the living seem I what I'm not. No more revile me, I am thy friend in disguise.'

"Dear friends, our rabbis, many centuries ago sought to select the most meaningful character quality of man, and one of the phrases which they selected was a good name. Senator Richard Neuberger had a good name, and testimony to this, not only his family, but the citizens of our Nation, also mourn his passing, and testimony to his good name. We are honored to have in our presence today a number of men who worked with him. The Honorable Mark O. Hatfield, Governor of the State of Oregon."

Governor Hatfield: "Senator Richard L. Neuberger utilized every ounce of energy and strength to advance his beliefs, whether in the spoken or written words. He was well on his way to becoming one of the foremost authors of our time, when public service began taking more and more of his time; first as a State representative, then as a member of the armed services, later, in the State senate, and, finally, in the Senate of the United States. During my service in the State legislature, it was an educational experience to work with Dick Neuberger as he advocated, pleaded, implored, beseeched, and pressed fully for legislation in which he believed. He had a handfull of members of his party from a period in their history when their senate caucus numbered four, until a majority was attained shortly after his elevation to the Nation's Capital. Equipped with a brilliant intellect, Dick Neuberger fought the status quo. He ceaselessly, restlessly wanted to move forward, to do more for his people, to leave them a legacy of carefully husbanded natural resources, a future as bright as that which our pioneer predecessors envisioned. Even as he was held high in the esteem by those with whom he associated, so he extolled the memory of those he emulated. Similarly, one of those he admired most, Franklin Delano Roosevelt, also won out over almost insurmountable odds of an earlier dread disease, but was struck down by a like attack. Each had work yet to do, each had plans not yet fulfilled, and yet another parallel exists. Both were aided immeasurably by an able wife, who had developed complementary talents in her own right over the years. And even as Mrs. Roosevelt today is an elder stateswoman, so do I predict Mrs. Neuberger will contribute much to the society in the years ahead. As Governor of the State of Oregon, as a former State legislative colleague, I acknowledge with deep gratitude this afternoon the lasting contributions Senator Neuberger made to this State and to the Nation. He grew tall to match our forests, he saw to the horizons as from our mountaintops, he spoke with the eloquence of his writings, he shared himself with us, he spared himself not. He was our faithful servant, may he rest in peace."

The Honorable LYNDON B. JOHNSON, U.S. Senator from the State of Texas and majority leader of the U.S. Senate: "Rabbi Rose, Governor Hatfield, Justice Douglas, my colleagues, fellow Americans, Mrs. Johnson and I were shocked and saddened when we learned of Senator Neuberger's untimely death. My colleagues and I have flown across the country, 2,400 miles today, in order to share the privilege of joining all of you in paying tribute to one of the great Americans of our time. Dick Neuberger was my devoted friend. I might add that it was a mutual friendship. He was never afraid to be on any unpopular side once he was convinced that this course of action was in the best interests of the country he loved so much. He was an impeccably honest public servant. I think he was the truest and most genuine liberal I have ever known. Sham and hypocrisy, and demagoguery were foreign to his nature. He was a great humanitarian. He loved people—all the people, but particularly little people. He fought their battles, he bled for them, he stayed awake at night attempting to devise means to improve their lives. It mattered not whether it was the postman who bore the burden of a mailsack on his back, or the widowed clerk who needed health insurance. He was a dedicated conservationist, he was a lover of the beauties of nature.

"His career in the U.S. Senate was entirely too short. He was loved and respected by Democrats and Republicans, as attested by their presence here today. During 30

years of service in the Nation's Capital, I have never heard as many eloquent eulogies as those paid to Dick Neuberger by his colleagues in the Senate last week and I have never known them to be more deserved. My life has been enriched as a consequence of my very brief association with him. Dick Neuberger was constantly reaching out, searching for legislation that would make a better world for all citizens, irrespective of their nationality, their race, their religion, their color, or their creed. He was chiefly responsible for the elimination of unsightly billboards from our Interstate Highway System. No Senator has ever worked harder to secure adequate appropriations for research in cancer, and heart, and the other dread diseases. And some of us are here today because of efforts of Dick Neuberger and men like him. Because of his leadership, because of his inspiration, because of his noble fight, the battle to end these disease killers will go forward with greater impetus and with a more determined dedication. And we who are left will pick up that flag that he had to drop.

"I have never known a man that was more devoted to his lovely wife, Maurine, or one who received more inspiration from their helpmate than Dick did from Maurine. I have always heard that it took two great women to make one good man, and I have been enriched by the privilege of seeing his lovely Maurine today and meeting his wonderful mother. I have never seen a team that was more dedicated or more effective. They seemed always to know where the ball was and they knew how to carry it together. Oregon has lost a great son; Maurine has lost a devoted husband; Mr. and Mrs. Neuberger have lost a proud child. Yet I know all of you will go forward with greater determination so that we can truly say that he did not die in vain. The Northwest, the Nation, the free world, I am confident history will record are much better because Dick Neuberger came our way."

The Honorable Robert D. Holmes, former Governor of the State of Oregon: "With real humility I am privileged to share with you today some observations of Dick Neuberger's great service as a State senator, speaking in behalf of all of those of us who served with him. His work in this capacity, as was all of his work, was monumental, an enormous fund of information, his vision about necessary reforms, his ability as a speaker and debater, and his inherent know-how in the art of politics, his absolutely unlimited capacity for work—all contributed, I think, to the passage of some of the most important State legislation in two decades: fair employment practices, Portland State College, reapportionment. A list of the many accomplishments that began with Dick's ideas would be endless. And much more such legislation that started with one of his ideas will certainly be enacted in later years because of his vision. Always, as a State senator, a member of the minority, he somehow always could provide the ideas, and to drive and to marshal our forces so effectively, that it finally helped lead to majority status. The opposition always respected him. I think perhaps they feared him. He was their conscience. Had Dick Neuberger never been privileged to serve in the U.S. Senate, our State of Oregon would still owe him a great debt and great homage for his contributions to our social progress in this State. It was a privilege to serve with him, it was an even greater privilege to call him friend."

E. Palmer Hoyt, editor of the Denver Post and former editor of the Oregonian: "Dick Neuberger was many different things to many people but he never tried to be all things to all people. Dick was, in my judgment, a true liberal in the classic sense. He was completely dedicated to making democracy work. I knew Dick in different ways than many people. I knew him as a newspaperman, a writer, and a personal friend. He was, if you please, a protege of mine, in his early years. Remarkably enough, we both survived that relationship and became fast and firm friends. I well remember my first official contact with Dick Neuberger. He had been hired in the early thirties as a cub reporter in the sports department of the Oregonian. Came a Monday when most of the sports department reporters had a day off. Came the first edition, then out at 7 p.m. The sports pages showed some radical changes. Radical changes at that time were not easily tolerated in the Oregonian. These radical changes were called to my attention. I asked for Gregory, McCloud, Buck, Buxton, Bostwick. I asked, 'Who is in charge?' I was told 'Neuberger.' I said, 'Who is Neuberger?' 'The new cub reporter in sports,' I was informed. I sent for Dick and discovered a bright young man, who from then on occupied a part of my heart, and I must say of my attention, too. Dick Neuberger set at the feet of many men. Some of these men lived in return to sit at his feet. Dick in his youth was a hero worshipper. Among his heroes were Franklin D. Roosevelt, Senator George Norris, William O. Douglas, Bernie Baruch, Senator Lehman, Senator Borah, Senator Bert Wheeler, to name a few. Dick had the faculty, while still in his teens, of making friends in high places. Probably the greatest shock ever to be experienced by the Democratic hierarchy of Oregon was in 1932 when they learned that Mr. Roosevelt was getting his political dope on Oregon, not from the national committeeman, not from the State chairman, but from phone calls to young Dick Neuberger, age 19. Dick was curious but not contentious. We disagreed on many things but always disagreed intelligently. Dick was essentially a man of good will. It always troubled him deeply that men should hate him. Dick was a smart political campaigner but with solid techniques inborn. As in his campaign for the U.S. senatorship in 1954, there were many reasons why he scored one of the great upsets of Oregon's political history, but one reason was that he put a picture of Hells Canyon Dam in the front room of every home in a public power State. Dick Neuberger deserves this tribute. The world is a better place because he lived in it."

The Honorable William O. Douglas, Justice of the U.S. Supreme Court: "Rabbi Rose, friends of Dick Neuberger, those of us who just arrived from Washington dropped by Dick's house a few moments ago to see his parents, to see Maurine, to extend to them our deepest sympathies, and Maurine suggested that perhaps we would like to see Dick's study. And so the few things that I have to say to you are things that came flooding back to me a few minutes ago when I was in Dick's study because there on the walls were some wonderful photographs of mountain trips that Dick and I had taken together. I knew Dick when he was just out of the University of Oregon, a young newspaperman, and that was the beginning of a very warm and enduring friendship. All of us who have lived in the Northwest and call this our home have a special debt to Dick because he translated this great Northwest to all the peoples of America, telling them about its wonders and its mysteries; about its waterfalls and its people; about its forests, and its problems, and its cattle and sheep. And a bit more, I suppose, than any person in American history, to bring to the attention of the Nation at large the great potential of a particular area of the United States. These trips that Dick and I had together in the mountains were sometimes written up by him. Sometimes little paragraphs appeared in his books and articles, but mostly they were hours and days of relaxation. The days, the hours we spent floating the McKenzie here in Oregon, the days we spent on the high trails in the Wallowas and in the Cascades—those were very rich experiences for both of us.

"Dick had a real passion, I think, for the soil and the trees and the grass, and the rivers and the mountains of America. Dick had a real passion, I think, for the wilderness of America and the wildlife in America—the birds, the geese, the ducks, the deer, the beaver, the fish, the coyotes—the great community that makes up life. He knew how empty America would be if we ended up our destructive practices with nothing but people left, because man needs these creatures of the wilderness to live a full life.

"And I suppose that there was no greater passion in Dick's life than the preservation of the wilderness and his wilderness bill that he nurtured before the Senate, and the long hearings that he attended and conducted. I don't suppose that there is any living American who has done more to inculcate into the minds of this generation and the oncoming generation the need for conservation, the need for preservation of the richness in the woods, in the lakes, and the streams and the meadows of America.

"So I think, this afternoon, as I thought when I saw those wonderful pictures in Dick's study a few minutes ago, that he had probably done more to impress upon all of us in this time that we are merely life tenants here, and that we should pass on some of the greatness of the wilderness of America to those who come behind.

"And I think that if we do end up with bits of wilderness that we can pass on to our sons and our grandsons and granddaughters, that we will owe it in very large measure to the great American who passed this way, who came out from Oregon to tell the world and America about the greatness of this wonderful region."

The Honorable PAUL DOUGLAS, Senator from the State of Illinois: "Friends, you in Oregon and the Pacific Northwest have known, admired and loved Dick Neuberger for many years, but until 1955 we in the Senate, with the exception of ERNEST GRUENING, had in the East only known him from afar as a penetrating writer upon the history, the outdoors and the social and political movements of the Northwest. During these last 5 years, however, he won for himself universal respect, general admiration, and wide friendship, while there were many of us who really loved him, and when I speak of Dick, I, of course, speak of Maurine as well, for the two were indeed one. As Justice Douglas has said, Dick loved the striking places of natural beauty in this country, of which this region contains so many. The majestic mountains—some of them snowclad—the fertile valleys, the green forests, the swift flowing rivers, and even the tawny deserts. He wanted these preserved in their beauty for the use of the people of the United States and to prevent them from being defiled, debased or exploited. If the roadsides of the great highways of America are protected from becoming canyons of defacing billboards, he will have effected it. If great forests are preserved, he will have helped. And if some of the beauty of our ocean and lake shoreline is saved, his labors will have helped. If the rushing waters of your magnificent rivers turn increasingly the turbines which bring production, employment and well-being to the people of the Northwest, his voice and pen will have played an honored and important part. But Dick also had a deep feeling for people, and he was anxious to help the poor, the sick, the old, the weak, and yet in doing so he was scrupulously fair to the strong.

"His close brush with death 18 months ago made him even more compassionate, if that was possible, and at the same time anxious to lift the curse of cancer from man-

kind. As a true outdoorsman should, Dick had also a basic and fundamental feeling for freedom: for freedom of thought, freedom of expression, and freedom of assemblage. He believed in a wide diffusion of both economic and political power so that all men may have enough power to be secure, and yet none may have so much as to threaten the liberty of others.

"Dick, as we all know, had also an extraordinarily able and analytical mind; and having literary skill, he was certainly one of the most gifted writers of our time. To this he added never-ceasing industry, and unfailing personal kindness and courtesy. As I have said, Dick had a scrupulous sense of fairness. To opponents, to people who differed with him, to the man on the street, he was ethical, indeed fastidiously ethical, in his private and in his public life. He was in fact everything that a man should be and, to my mind, everything that a Senator should be. The country has suffered a loss which we can ill afford to bear. It seems cruel to lose him at an age while the arc of his abilities was still rising. But Dick's life proved the aptness of old Ben Johnson's line, 'And in short measure life may perfect be.' Like many others in these last difficult months, I have pondered about the relative balance of good and evil in human life, and of the comparative strength of love and hate. There is certainly much good in man, but whether there is enough good to save him from ultimate destruction, may indeed be questionable.

"But whatever the final result, the struggle is worth making, and Dick's example will give us courage on the way. And if by chance or by divine providence, or by the structure of biological and physical life itself, the cause of human brotherhood should ultimately triumph—which it may not do—he will have had an honorable and important part in its achievement. The State of Oregon can indeed be proud for having given such a noble son to the Nation."

The Honorable ERNEST GRUENING, U.S. Senator from the State of Alaska: "Friends of Dick and Maurine Neuberger, it's really difficult to speak of Dick in the past tense. Not only was he such an alive and vivid personality, so keenly interested in the many worthy, all good, deserving causes in which he was enlisted, but the really important thing is he does live on, he lives on in a great variety of activities: some of which he saw fulfilled, some of which he started on their way, and which will carry on and will be monuments to him—not that he wanted that type of monument—but because the community, the State, the Nation, will be all the better for their ultimate realization.

"I think I have known Dick Neuberger perhaps longer than any other Member of the Senate, unless he was an Oregonian, and my first encounter with Dick, I think, was very characteristic of him. It was in the late summer of 1933. He had been to Europe. He had been to Germany. Adolf Hitler had come to power a few months before and very little of what had really transpired under this totalitarian regime had reached the outside world and the American people. In fact the word had been brought back by a few superficial commentators that Germany had awakened from a period of doldrums, it was on the march forward, and that on balance what had happened was beneficial. Dick, as a great journalist, when he got through as to what was going on in Germany, left the beaten path to which tourists were directed, and he went out and saw for himself the horror and the brutality and the ruthlessness of National Socialist Germany under Adolf Hitler. And when he came back to New York in August of 1933, he came into the office of the Nation, to which he had been a subscriber, thinking that we might be interested and told me what he had seen, and I asked him to write it. And it appeared at that time, and it was the first realistic article that told the truth about what was going on. It had tremendous effect—had effect on all journalism and all the reporting—because here was the clear record of the ruthlessness and the horror that was going on, and that was being concealed from the world by censorship.

"Now this episode was typical of Dick, in that he turned everything that he saw and everything he experienced, to good use, to public use. Throughout the years everything that he did, when he went outdoors as Justice Douglas has told us, when he enjoyed his mountain climbs, when he enjoyed swimming in lakes—that stimulated in him the desire that others could enjoy these things and enjoy them in perpetuity. Never has the great outdoors, never has the inherited beauty, the primitive beauty of America had such a stanch defender, and if it is perpetuated it will be largely due to the energy, to the enthusiasm, and to the message of Dick Neuberger. And you can carry this through all his activities. He wasn't merely interested in nature. There was no subject that didn't interest him. You heard our majority leader say to you that in all his long experience he never heard tributes to a departed Senator which were so sincere, so devoted, so moving, as those which were paid to Dick—and he knows.

"And I think it is particularly striking in that there was very little time for preparation. The morning paper in Washington did not carry the news of Dick's death. It came over the radio. And when the Senators came to an early session of the Senate, they were not prepared but they spoke spontaneously, and they spoke from the heart. And though my experience is very brief in the Senate, I think I would like to say in the presence of my colleagues that it is my belief that no Senator ever accomplished so much in his first and single term as did Dick Neuberger. There is a tradition which we all know about, that freshmen Senators are supposed to be seen and not heard for a long time, and are not supposed to speak very often. Dick didn't adhere to that. He was so full of the things he believed in, that he spoke early. And I think if anybody has shattered that tradition, and perhaps shattered it well and wisely, it was Dick Neuberger, because people listened to him, and he had something to say on every subject.

"He has left a great legacy, long before he came to the Senate, when he started on his writing career. And if you recall the many articles that he had written in every type of magazine, magazines of wide circulation, such as the Saturday Evening Post and Collier's, magazines of limited circulation appearing to special audiences, all kinds of obscure magazines, but never did he write anything that didn't contain a kernel of great truth; something that hadn't been discovered before; a new, fresh point of view; a new and keen analysis that was constructive, and that left a thinking reader, who hadn't thought about these things before. In a foreword of one of the books which is a part of Dick's great legacy, a book entitled 'Integrity,' the life of George W. Norris, whom Dick admired greatly, and whom he greatly resembled, in the beginning of that book is a quotation from a speech which Franklin Delano Roosevelt made in behalf of George Norris in which he said we should remember that the ultimate analysis of history asks these questions: 'Did the man have integrity, did the man have unselfishness, did the man have courage, did the man have consistency?' And he went on to say, 'If the individual under the scrutiny of the historic microscope measures up to an affirmative answer to these questions, then history has set him down as great indeed in the pages of all the years to come.'

"He, of course, applied that to George Norris. I tell you my friends it applies in no less degree to Richard Neuberger. He had integrity, he had unselfishness. I can think of no man who had it to a greater degree. He was always thoughtful and considerate of others. Even in the great rush and bustle, and the pressures which we are under, I never knew Dick not to pause and stop to perform some kindly act, utter some kindly word, to do some generous geture for his fellow men; and that just as much for those with whom he differed politically. He was able to differ politically and leave everybody feeling friendlier and better than ever before. Did he have courage? He had the courage of a lion. He fought unceasingly for the many things that he believed in.

"As PAUL DOUGLAS has said, all the freedoms, the basic freedoms, with an independence of thought, and a perspicacity that brought those freedoms home in lots of new ways. Today there are millions of people who are the better because Dick Neuberger served in the Senate. All the Federal employees today have health insurance because of a bill that he sponsored and pushed through to completion.

"Unfinished, but soon finished, will be a similar bill I trust for all those retirees who could not get this insurance under the ordinary procedures and the ordinary channels. And the thing that must make you lift up your hearts, I say to you, is that Dick Neuberger's work goes on. It's permanent, it's constructive.

"He died last week, and if he had lived longer, he could have done many more things, but he has done more in his short life than very few men can accomplish in a much longer life. Oregon, the Nation, and the world, are infinitely better for his being there."

Dr. Richard M. Steiner of the First Unitarian Church of Portland: "It is for me a great honor to have been asked to pay the final tribute at this hour to the life and influence of Richard L. Neuberger. We were friends, but not intimates. He sometimes came to me for advice—more often I offered it unsolicited, which he took with good nature albeit not always following it, for Dick could sift the wheat from the chaff. I recall vividly one piece of advice I gave him which, had he followed it, would have robbed our State and Nation of a great public servant. He came to me in 1948, I think, to ask my opinion about the advisability of running that year for Governor or for U.S. Senator. I told him I thought it unwise, not only for him to run in 1948 but for some years to come. Fortunately for our State and the Nation, he did not heed my advice. Instead, he ran for the Senate in 1954 and was victorious in that race. He was a driven man, with the blood and fire of the prophets in his veins.

"To him freedom was more than a word; it was something to be achieved and cherished. It was something for which he felt responsible.

"For him freedom was more than a word. It was a schoolbus stopping at the country crossroads picking up children to be taught at the expense of the community—the liberating art of literacy. It was the secret ballot, the primary, the legislature, and the courts, by which and through which people expressed their desire to live under law for the protection of their lives and property. It was the initiative and referendum, the recall, and procedures of impeachment by which people might display their displeasure and pleasure with laws and with men. It was the microphone in every radio and television station which could be purchased for 30 seconds or an hour to tell the Nation or a part of the Nation that you were running for office, and why. Freedom to him was more than a word. It was to make a better mousetrap than your neighbor and sell it for a profit;

it was the right to strike, that the sweat of your brow should not be sold for a farthing, and that you should have leisure hours to enjoy the fruits of your labor. It was not to wake up in the night in fear that the knock on the door was a squad of secret police, who had come to take you away for your words of criticism or condemnation. It was not looking over your shoulder for fear that an informer might hear those words and run to the authorities.

"Freedom to him was more than a word. It was walking into the church or synagogue of your choice, to worship God in accordance with your conscience without having your choice affect your livelihood or your availability for public office. It was to be born black, red, or yellow without having that fact deprive you of educational, political, economic or social equality by those who had been born white, and for that fact alone.

"Freedom to him was George W. Norris and the U.S. Senate, speaking and voicing his convictions about freedoms and about our natural resources without regard to political consequences but only with regard to what he thought was right. It was because freedom meant so much to him that Dick felt compelled to enlist in the service of freedom, even as the Senator from Nebraska had enlisted.

"His work is done, and yet not done. Somewhere, we trust, in a public or parochial school, in a State university, or private college, a young man or young woman will find inspiration from the life and from the works of Richard L. Neuberger, to dedicate his or her life to the preservation of our natural resources and to the extension of the freedoms of this our beloved land. I cannot bring this tribute to a close without a word about Dick's humanity—a humanity that concerned itself with people as persons and not as creatures to be manipulated. He had the divine but troublesome gift of empathy. He could feel another's hurt whether it be a college student suffering the indignities of a hazing or whether it be a Negro refused service at a lunch counter.

"No effort was too great for him to redress what he believed to be a wrong. A personal injustice to someone known only to him perhaps by name. No effort was too great to bring to some humble soul a sense of personal worth. No sacrifice was too great to assure some youngster an education.

"He will be remembered by the State of Oregon and by the Nation for his statesmanship. He will be remembered by persons for the humaneness of his spirit—a spirit that is now at peace with God, who gave him to us. It is that spirit which will ever remain with us. We all sorrow for his family and for ourselves, but we rejoice that he lived to enrich our lives with his service to us. We rejoice also in the sure and certain faith that he has now joined with the immortal souls of all the dear and faithful dead who belong to the family of God. Let us pray.

"Oh, thou whose never failing providence ordereth all things both in heaven and on earth, by whose loving kindness we are given to know life and death and all things, we have brought to thee this hour the gratitude of our hearts for the life which thou did givest for a season and which now has been surrendered unto thee. We thank thee for the endless renewing of life and for thy patience with us. Though we know nothing of the morrow, may we be faithful today to the vision of thy prophets and their servants, who sought to bring unto this world thy peaceable kingdom ruled by thy law and governed by thy wisdom. We pray for the good estate of this, our beloved land, that all men of every race and faith may enjoy the blessings of an impartial freedom and thus fulfill the dream of brotherhood among all peoples, for which men of good will have lived and died throughout all generations—even as he whose life we have praised this day. May his memorial be in our words and thoughts and made precious by our deeds. In thy name we ask it. Amen."

Rabbi Rose: "After the closing prayer will the congregation please remain standing until the members of the family, those distinguished guests in the procession who have honored the memory of Senator RICHARD L. NEUBERGER, and the speakers on the rostrum have left the sanctuary.

"When cherished ties are broken and fond hopes shattered, only faith and confidence can lighten the heaviness of the heart. The pang of separation is hard to bear, but to brood over our sorrow is to embitter our grief. The psalmist said that in his affliction he learned the law of God. Indeed, not unavailing will be our grief, if it send us back to serve and bless the living. We learn how to counsel and comfort those who like ourselves are sorrow stricken. Though absent, the departed still minister to our spirits, teaching us patience, faithfulness and devotion. In the remembrance of their virtues and affections, the best and purest part of their nature lies eternally in shrine. Let us lift our head in hope, and summon our strength for duty. We dwell in the shelter of the Almighty for He is our refuge and our fortress."

HEBREW PRAYER

"Extolled and hallowed be the name of God, throughout the world which He has created according to his will. May His kingdom come and His will be done in all the earth. The departed whom we now remember has entered into the peace of life eternal. He still lives on earth in the acts of goodness he performed, and in the hearts of those who will ever cherish his memory. May the beauty of his life abide among us as a loving benediction, may the Father of peace send peace to all who mourn, and comfort all the bereaved among us here, and wherever they may be. Amen."

CIVIL RIGHTS LEGISLATION

Mr. MORSE. Mr. President, I have discussed civil rights legislation so many times in the Senate that there is little I can add to what I have already stated for the RECORD. Therefore, my remarks at this time will be very brief, in explanation of my vote in support of the inadequate civil rights bill which we just passed.

The civil rights bill just voted on is a great disappointment to all of us who are seeking to bring the colored people of America into first-class citizenship.

What its voting section provides is not the protection of the suffrage for the large mass of disenfranchised Negroes of the South, but an individual-by-individual proceeding in court whereby a few of them can get registered and vote.

In other words, as I have said before, this is a bill characterized chiefly by the descriptive term "litigious bill." It is a bill which makes it necessary to find that there was discrimination in denying a colored person the right to vote, and after such a finding, that colored person is put in a position wherein he is the complainant, and must come forward and run all the harassments and risks that go with his seeking to raise an issue over denial of his right to vote.

As I have said elsewhere, I say here tonight. To use a hypothetical example, if Mr. Jones is a colored clerk in a grocery store in an area where the right to vote is being denied on a discriminatory basis, and he finds himself in a position where he is, in effect, the complaining witness, the chances are good that economic pressure will be brought against him and he will find himself, in many instances, out of a job once he files a complaint. That is why I fought so hard in the debate for the Clark-Javits amendment, of which I was one of the cosponsors, which amendment would have provided for an enrollment system as an alternative to the referee system, which would have resulted, in my judgment, in tens of thousands of Negroes being registered to vote, in contrast with what I predict tonight will be but a few hundred a year that will ever get the right to vote under the system, called the referee system, which has been adopted and made a part of this bill.

The language of the bill now really provides what we might call "token" voting by Southern Negroes. It opens up a procedure whereby those colored Americans who are so anxious to cast a ballot that they are willing to undergo considerable effort, make public issue as individuals of voting discrimination in their community, and be prepared to spend a good deal of time in court may, in the end, be able to cast a vote on election day which they cannot now cast.

Another section of the bill requires preservation of State voting records for 22 months, and opens them to inspection by the Attorney General. That section accomplishes the purpose of my own bill, S. 2722, introduced last fall.

The bill further enables the Federal Bureau of Investigation to enter into cases of bombings, where pursuit across State lines is involved. It authorizes the armed services to provide for the education of children of servicemen if local schools near military bases are closed.

For these minor advances in the guaranteeing of our civil rights, I voted for the bill.

On balance, I do not think section 1 adds anything to present protection of Federal court orders. It permits prosecution of those who obstruct such orders, by threat or force, but it assures the individual of a jury trial both in the prosecution and in the contempt proceeding.

I do not believe that very many Southern juries will convict in cases involving obstruction of court orders in desegregation cases. We need to keep in mind that these are Federal cases and will require the unanimous verdict of the jury, which means only one member of the jury is necessary to hang the jury and prevent a verdict. In my judgment, therefore, section 1 will not be very effective in really preventing obstruction of court orders, particularly in desegregation cases.

Because the voting rights section of this measure sets forth such an elaborate legal procedure, it is far short of coming to grips with the administrative problem of registering great numbers of people.

For that reason, this bill is only a small, tentative step in the direction of making the 15th amendment meaningful to those for whom it is now only a paper guarantee.

I consider H.R. 8601 a foot in the door. But the door must still be widened. We must continue keeping the pressure

on for enfranchisement of every American of voting age, and we cannot relax our efforts until that goal is attained.

It may be that this token voting procedure, established by law to operate in the Federal courts, may indicate, to those areas where voting discrimination still prevails, that theirs is a losing way of doing things. It may influence some communities to abandon voluntarily their discriminatory practices, used to keep Negroes from the voting booth. I fervently pray that that will be one of the results.

It may have an effect similar to that of a handful of court decisions on desegregation, which have produced desegregation in many additional areas, without litigation.

I hope and pray that will continue to be the effect.

But our efforts to gain first-class citizenship for every American cannot flag for a moment. This issue of voting rights and of equal protection of the law will continue to come up in Congress after Congress until it is settled in favor of full exercise of all constitutional rights.

I serve notice that I shall not put this issue aside just because this token voting rights bill has been passed in the Senate. I have voted for it because it, at long last, places a legislative sanction on the 15th amendment. However, I shall continue, so long as I serve in the Senate, to work for the passage of a broad civil rights bill which will bring to the colored people of our country the full rights of first-class citizenship to which the Constitution of the United States entitles them.

Mr. President, I turn to another matter. I have two or three other items I am going to put in the RECORD tonight, because I shall catch a plane later for my home State, where I shall be for the next several days, and these are matters on which I have announced previously to interested constituents and interested parties I would make these comments before adjournment tonight.

The PRESIDING OFFICER. The Senator from Oregon has the floor.

CAUCASIANS ONLY—BOOK REVIEW

Mr. MORSE. Mr. President, in the April 11, 1960, issue of the New Leader, there is reviewed a book recently published entitled "Caucasians Only."

The book is written by Prof. Clement Vose of the University of California, and is reviewed for the New Leader by Samuel Krislov.

This book is the story of the legal battle which culminated in the decision of the U.S. Supreme Court in the case of Shelley against Kraemer, denying the enforceability of so-called restrictive covenants in real estate transactions.

As is duly brought out in the review, this decision was one of the greatest civil rights triumphs achieved by litigation.

In connection with it, I wish to mention my bill, S. 1000, which would ban inclusion of a restrictive covenant in real estate transactions in the District of Columbia. While the courts have held them not to be enforceable, their continuance in any form is obnoxious. They simply seek to deny property ownership to individuals of minority races and religions.

That is a practice we are trying hard to stamp out in all our economic and political life. I ask unanimous consent that this review be printed in the RECORD at the close of these remarks. Professor Vose has made a great contribution to the study of the legal history of the protection of our constitutional rights by the courts of America. His book deserves to be widely read.

The PRESIDING OFFICER (Mr. PROXMIRE in the chair). Is there objection to the request of the Senator from Oregon?

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

HOUSING IN BLACK AND WHITE

Hopefully, the problem of southern school integration has entered a phase of compromise and solution. Certainly issues of integration in the North are and will be coming to the fore; discrimination in housing, and not in education, gives promise of emerging as the Nation's most serious interracial problem.

Clement Vose's timely new book, "Caucasians Only," is an absorbing, if unevenly written, account of the first round of the battle on racism in housing. It is a detailed record of the 31-year fight, which culminated in the Supreme Court's 1948 ruling that agreements restricting the sale of property to specific racial groups could not be enforced through Court procedures. This decision in *Shelley* v. *Kraemer* ranks with the segregation decision and the invalidation of the white primary as among the greatest civil rights triumphs achieved by litigation, and on that basis alone, deserves study.

What makes the book unique, however, is that the author has not limited himself to legal questions, but has given us an absorbing account of the genesis and conduct of the litigation. Vose is the first to attempt to give an account of the gestation and birth of legal change.

By emphasizing the tactics and maneuvers of opposing group forces as an element in litigation, Vose is forging a new tool of analysis that scholars and lawyers will be able to use to supplement more traditional doctrinal exegesis. By delving beneath the legal facade and concentrating on the flesh-and-blood basis of law traced in the activities of men and organizations, Vose has earned a debt of gratitude from all students of American government and legal processes. The pattern of activity traced here, though, is so absorbing that it would be unfortunate if "Caucasians Only" were to be relegated to the scholar's shelf. Every case has its share of drama, but this is one of the few instances of nonfictional litigation told in all its richness and human complication.

Vose is particularly at home in the narrative sections that begin with an NAACP meeting of lawyers and experts in 1945. The conference was the result of the wartime intensification of the problem of Negro ghettoes in the North. Neither the improvement of Negro economic status nor the increase of Negro populations in industrial cities had resulted in significant opening up of new neighborhoods to ease the overcrowding that has been the pattern of Negro life in the ubran North.

The result of the conference was a determination to place high priority on the fight against restrictive covenants. A nationwide publicity campaign was inaugurated, and a full-time staff member in the NAACP office assigned to the problem of housing. Attorneys were encouraged to bring cases on the lower court level, more with the thought of using the trials as vehicles for dramatizing issues and educating the public on such questions as alleged deterioration of property values when Negroes move into neighborhoods, than with the hope of winning at this level. Articles were encouraged in both popular and scholarly journals. Charles Abrams' article on housing in "Commentary" (May 1947) was one of the fruits of this policy: Dudley McGovney's article in the "California Law Review" suggesting a new legal argument, which eventually meant success in the Supreme Court, was another.

While forces friendly to Negro rights were mobilizing, defenders of the status quo were not idle. Neighborhood associations (often one-man affairs), real estate brokers, and their legal representatives took the lead in enforcement and defense of covenants.

While tactics were similar on both sides, the NAACP had many advantages. The objective situation aided their cause, and the cooperation of scholars like Louis Wirth in fully developing the inequities of residential restrictions was valuable. Then, too, the structure of the Negro community aided their cause. The separatism of prejudice was an advantage in a legal and logical struggle, with the unity of the Negro community lending coherence and devotion to the cause of Negro rights. This is particularly true of Negro attorneys, many graduates of Howard University Law School, and until quite recently, largely excluded from the American Bar Association and organized in their own National Bar Association. The cooperation of other national organizations devoted to civil liberties was another asset.

But the advantages of organization of the antirestrictive covenant group were clearly relative. By no standard can the conduct of the litigation be described as efficient. Only on the most superficial level does the book conform with the ultra rightwing view of a coordinated conspiratorial effort on the part of a "big four" (or any other number) of civil rights organizations. What stands out, indeed, is all too often dissonance and the impossibility of complete coordination.

This is perhaps best illustrated in the cases actually put before the Court. The title case, Shelley against Kraemer, was not one NAACP strategists wished brought to the Court; the filing was independently made by George Vaughn, the attorney in the case, and was premature in the judgment of some NAACP counselors. Only one of the four cases the Court finally considered could properly be referred to as conducted by the association. Within the ranks of the lawyers handling the cases there was considerable disagreement. Against the advice of all involved, Vaughn wished to deemphasize sociological data and to concentrate the legal argument upon the antislavery provisions of the 13th amendment.

In an embarrassment of riches so many organizations filed amicus curiae briefs ("friend of the Court" statements, developing ideas of parties interested but not actually involved in the litigation) that the attorneys and strategists were fearful of alienating the Justices by what might be construed as a naked show of strength. Another problem was the repetitiousness of these briefs, threatening another danger—boredom on the part of the Justices.

In an informative letter, Charles Abrams sought to have the American Jewish Committee brief altered, and developed his ideas on the role of amicus curiae briefs. His advice to Newman Levy was that the AJC brief avoid the major issues the principal attorneys should be responsible for, but should rather develop side issues and novel arguments with moral overtones, which the main advocates would have to avoid, but which might have an effect on judicial decision. "Why desert all these rich and adventurous passages to jam the safe waters that should be reserved for the main advocates?" he

asked. An NAACP assistant counsel applauded Abrams for his letter. "I wish I'd had the courage," she said, "to write that kind of letter to all the amici." Levy, on his part, admitted the logic of Abrams' position, but justified his actions in terms of his own organization and his responsibilities. Should the Court cite the expected arguments, "we all will be able to say to our members 'isn't that exactly what we told the Court?' "

If the spectacle of human frailties and individualistic, even egoistic, strivings sometimes lacks epic and heroic elements, it nonetheless rings true to life. Within the pages of the book, too, there are chronicled instances of cases handled at considerable sacrifice, of houses bought and lived in at risk of life and injury. It is, in any event, fitting that the cause of human liberty should be advanced in this almost haphazard, human way, rather than with the stern efficiency of Spartan phalanxes. It is, above all, fitting that this struggle should be chronicled in a book that opens up new understanding of man and the law.

STREETCAR CONVERSION

Mr. MORSE. Mr. President, I recently received a copy of the opinion of the Public Utilities Commission in support of findings, conclusions, and the order of March 2, 1960, establishing a new fare schedule for D.C. Transit. The opinion runs to 34 pages, and seems to be the product of much careful study of the testimony taken in public hearings. In reading it, I noted particularly the attention given to the factors entering into the decision to raise fares.

It is not with respect to the fare increase, however, that I wish to address myself primarily today. I am more concerned at this time about the rapid conversion of our streetcars into buses. I feel most sympathetic toward the many District citizens who have voiced their concern about streetcar displacement on many lines, and who view the future of a trolley-free Washington with dismay.

Let me say at the outset that I cannot quarrel with the Public Utilities Commission. The Commission is bound to follow the law as we wrote it in the 84th Congress, when we gave a charter which contained fairly clear directions to the Public Utilities Commission and to D.C. Transit. If second thoughts are to be had about that decision, they must originate in the Congress. We cannot expect the Commission to perform our function for us.

Senators will recall that in Public Law 757 of the 84th Congress, section 7 stated:

SEC. 7. The corporation shall be obligated to initiate and carry out a plan of gradual conversion of its street railway operations to bus operations within seven years from the date of the enactment of this Act upon terms and conditions prescribed by the Commission, with such regard as is reasonably possible when appropriate to the highway development plans of the District of Columbia and the economies implicit in coordinating the corporation's track removal program with such plans; except that upon good and sufficient cause shown the Commission may in its discretion extend beyond seven years, the period for carrying out such conversion. All of the provisions of the full paragraph of the District of Columbia Appropriation Act, 1942 (55 Stat. 499, 533), under the title "Highway Fund, Gasoline Tax and Motor Vehicle Fees," subtitle "street improvements," relating to the removal of abandoned tracks, regrading of track areas, and paving abandoned track areas, shall be applicable to the corporation.

Mr. President, it will be further recalled that section 4 of the franchise stated:

SEC. 4. It is hereby declared as a matter of legislative policy that in order to assure the Washington metropolitan area of an adequate transportation system operating as a private enterprise, the corporation, in accordance with standards and rules prescribed by the Commission, should be afforded the opportunity of earning such return as to make the corporation an attractive investment to private investors. As an incident thereto the Congress finds that the opportunity to earn a return of at least 6½ percent net after all taxes properly chargeable to transportation operations, including but not limited to income taxes, on either the system rate base or on gross operating revenues would not be unreasonable, and that the Commission should encourage and facilitate the shifting to such gross operating revenue base as promptly as possible and as conditions warrant; and if conditions warrant not later than August 15, 1958. It is further declared as a matter of legislative policy that if the corporation does provide the Washington metropolitan area with a good public transportation system, with reasonable rates, the Congress will maintain a continuing interest in the welfare of the corporation and its investors.

Mr. President, the interrelationship between these two sections of the franchise provide a strong incentive to D.C. Transit to complete the conversion program as rapidly as it can. I document this by the data appearing upon pages 3, 4, 5, and 6 of the opinion in support of the Public Utility Commission's fare raise findings wherein are detailed the conditions laid down by the Commission for the establishment of a shift to the gross operating revenue method desired by D.C. Transit. Pages 3, 4, 5, and 6 read as follows:

On January 14, 1959, the company by letter requested a decision from the Commission as to when it would approve the adoption of the gross operating revenue method for the determination of the return to be earned by the company. On January 27, 1959, the Commission replied, in part, as follows:

"It is the considered view of the Commission that the major conditions to be met by the company before a shifting to gross operating revenue method is warranted, would include compliance with the following:

"1. A conversion of street railway operations to bus operations measured by abandonment of not less than 55 percent of street railway track on the basis of mileage; or

"2. Completion of not less than 51 percent of the conversion program as measured on the basis of new buses purchased (or committed to be purchased) to replace retired street cars; and

"3. Adoption of a firm program of gradually replacing existing buses which are more than 16 years of age."

The Commission has been mindful of the legislative policy as enunciated by Congress in section 4 of the Franchise Act that we should encourage and facilitate a shifting from the system rate base to the gross operating revenue base "as promptly as possible and as conditions warrant." It is apparent from the very language of the Franchise Act that Congress intended for this Commission to adopt the gross operating revenue method, leaving to us the sole duty of determining the time when such adoption should take place. In other words, Congress has charted a course which this Commission can postpone for cause but cannot change.

In light of the declaration of Congress, we are unable to reconcile the opposition of some of the parties in this proceeding to utilizing the gross operating revenue method of fixing rates. An intervenor's witness (Dr. Ezekiel Limmer) testified that, although he had not read the Franchise Act, he opposed the theory of the gross operating revenue method in rate proceedings, and that such method would not be "proper" or "warranted" at any time under any conditions even though he was aware of the fact that for many years the Interstate Commerce Commission has employed gross operating revenues in fixing motor bus rates. The same witness testified that the gross operating revenue method is nothing more than a cost-plus method and therefore undesirable. The validity of this argument is open to question for, in the final analysis, every rate determination is nothing more than the sum of cost plus a reasonable profit.

The Commission does not feel that it is necessary in this proceeding to discuss or to pass upon the merits of the gross operating revenue method of rate fixing.[1] Suffice it to say, it is the opinion of the Commission that the Franchise Act explicitly prescribes the use of the gross operating revenue method as soon as possible and as conditions warrant, and, accordingly, this Commission has no recourse but to adopt such method if conditions warrant. The Franchise Act did not enumerate the conditions which would warrant the adoption of the gross operating revenue method. Our problem therefore has been to determine the intent of Congress as to just what conditions would warrant a shifting to the gross operating revenue method and to determine whether the company has met those conditions.

The Commission in its letter to the company of January 27, 1959, laid down two conditions that should be met before a shifting to the gross operating revenue method would be warranted, namely: that the company would have to (1) make substantial progress in converting street railway operations to bus operations; and (2) adopt a firm program of gradually replacing existing buses which are more than 16 years of age.

With respect to the first condition, the Commission specified that conversion to bus operations would be deemed substantial if (a) not less than 55 percent of the street railway track was abandoned, or (b) if not less than 51 percent of the conversion program as measured on the basis of new buses purchased or committed to be purchased to replace retired streetcars was completed.

The evidence of record in this proceeding shows that before the close of the hearing the company had successfully met both of the foregoing considerations relating to conversion. With respect to track abandonment, the record shows that by January 3, 1960, the company had abandoned 61.1 percent of street railway track on the basis of mileage, or 6.1 percent more than required by the Commission.

[1] We are aware that the gross operating revenue method has been used by the Interstate Commerce Commission and by many State regulatory commissions to regulate the motor carrier industry. These State commissions include California, Connecticut, Florida, Hawaii, Illinois, Indiana, Kentucky, Maine, Massachusetts, Michigan, Utah, Washington, and Wisconsin. We are also aware of the fact that the ordinary rate-base-rate of return approach to allowable earnings is not as reliable a gage in the case of a transit company as it is in the case of electric, gas, and telephone utilities, for the reason that

With respect to new buses purchased to replace retired streetcars, the record shows that 100 new buses were delivered in the fall of 1958, that 75 new buses were delivered in the fall of 1959, that 25 new buses were scheduled for delivery before the end of 1959,[2] and that 100 new buses were scheduled for delivery in the spring of 1960.[3] The first two deliveries, aggregating 175 buses, constituted 55.5 percent of the buses required to replace streetcars, or 4.5 percent more than required by the Commission. With the delivery of the next 25 buses, the aggregate of 200 buses constituted 63.5 percent, or 12.5 percent more than required by the Commission. With the delivery of the next 100 buses, the aggregate of 300 buses will constitute 95.2 percent, or 44.2 percent more than required by the Commission. On the basis of the foregoing the Commission finds that the company has complied with the condition relating to the conversion of street railway operations to bus operations.

With respect to the second condition, that the company adopt a firm program of gradually replacing existing buses which are more than 16 years of age, the record discloses that in addition to the 100 buses presently on order for delivery in the spring of 1960 the company, during the course of the hearings, through its witness Flanagan committed itself to a firm program of purchasing 100 buses in 1961 and 100 buses in 1962. Staff witness Falk questioned the adequacy of the company's replacement program and pointed out that at the end of 1962 when the conversion program is scheduled for completion there will still be 175 buses more than 20 years of age. He testified that the replacement program to which the company is now committed was inadequate and recommended that the company be required to commit itself to purchase 125 buses in each of the years 1961, 1962, and 1963.

We agree with the staff that a more extensive replacement program than that proposed by the company would be desirable, both from the standpoint of benefit to the riding public in comfort and service and to the company in economy and efficiency of operation, but we believe it would be unwise to require the company to commit itself at this time to making heavy capital outlays for a period in the future when operating revenues and expenses cannot be forecast with any reasonable accuracy. We believe that the sounder course to follow is to adopt a replacement program which the company can meet financially and which has a reasonable assurance of being successfully attained. The Commission will adopt a policy of making a continuous study of the need for replacing overage buses and, as well, of the financial ability of the company to satisfy such need. If, in the future, the need for new buses becomes more acute than at present the Commission will initiate appropriate action to require the company to step up its replacement program. Moreover, we cannot foresee the possible effect on the company of legislation pending in the Congress to create a temporary National Capital Transportation Agency and to authorize creation of a National Capital Transportation Corporation. Until present plans to develop a unified and integrated system of transportation for the National Capital region progress to the point when the impact of such plans on private transit can be evaluated, we believe it desirable to adopt a moderate policy in the area of bus replacement. On the basis of the foregoing the Commission finds that the company has substantially complied with the condition that it adopt a firm program of gradually replacing existing buses which are more than 16 years of age.

After giving careful study to the provisions of the Franchise Act, and after careful consideration of the evidence of record bearing on the issue of whether the gross operating revenue method should now be adopted in fixing the rates of the company, the Commission finds that the company has complied substantially with the intent of the Franchise Act and with the conditions heretofore indicated by the Commission as warranting the utilization of the gross operating revenue method for ratemaking purposes in keeping with the legislative policy declared in section 4 of the Franchise Act, and concludes that the gross operating revenue method should be utilized to fix rates in this proceeding.

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the revenues and expenses of transit companies are both relatively high as measured against their plant accounts.

[2] The Commission is advised that this group of 25 buses was placed in service on January 3, 1960.

[3] The Commission is advised that this group of 100 buses will be placed in service during March 1960.

Mr. President, last year, on December 31, 1959, I wrote to the Chairman of the Public Utilities Commission regarding the discontinuance of the Cabin John line and I received a reply on January 11, 1960, to that letter. Since at that time a hearing upon the rate case was pending, I did not feel justified in pursuing the matter until the rate case was finally disposed of. With the receipt of the March 31, 1960, opinion, I feel that the correspondence can, with propriety, be released.

Mr. President, I ask unanimous consent that the two letters to which I have referred be printed in the RECORD at this point in my remarks.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DECEMBER 31, 1959.

Mr. GEORGE E. C. HAYES,
Chairman, Public Utilities Commission,
District Building, Washington, D.C.

DEAR MR. HAYES: My attention has been directed recently by a number of District citizens to the proposed discontinuance, effective January 3, of the Cabin John streetcar line.

It is my understanding that the adoption by the Public Utilities Commission of the plan proposed by the management of D.C. Transit to effectuate the gradual conversion from street railway to buslines in accordance with the provisions of section 7 of Public Law 757, 84th Congress, was not preceded by a formal public hearing. It is my further understanding that the Commission is of the opinion it lacks the statutory authority to hold such a public hearing in advance of the adoption of the specific stages of the conversion operation. I am also informed it is the position of the Commission that, even if the authority to hold such a hearing could be construed from the language of the statute, no useful purpose would be served through scheduling a public hearing because the intent of Congress has been expressed in the statute.

I should very much appreciate being informed whether the foregoing is in fact a fair statement of the view of the Commission. Secondly, I should appreciate being informed of the dates upon which the company plan for conversion was submitted to the Commission, considered by the Commission, and ordered by the Commission.

If the information is available and can be released, I should appreciate receiving from the Commission a statement as to what time schedule has been adopted for the coming 3-year period for the completion of the conversion program; specifically, in what order the remaining routes are to be converted.

I should further like to inquire of the Commission whether, in implementing the conversion program under the statute, the Commission has taken cognizance of (a) the Mass Transportation Survey Report, and (b) the hearings upon that report before the Joint Committee on Washington Metropolitan Problems, insofar as these affect mass transit within the District of Columbia.

The latter point is one upon which I would particularly appreciate information for the reason that opponents of the conversion program have pointed out that the discretionary powers of the Commission under the Charter Act are such that a delay in placing into operation the stages of the conversion program might well be in the public interest if the conversion program has not been related to the needs shown by the mass transportation survey. It is the feeling of those who present this point of view that until the basic decisions concerning the mass transportation survey are made by the Congress it may be premature to take steps which by their very nature are irrevocable.

I am sure that you and the other members of the Commission can appreciate that in this matter I am simply seeking information which will be helpful to me in the consideration of proposed legislation, and that, as I have demonstrated in public hearings, I have no wish in any manner to suggest to the Commission any action upon any proposal before it which is inconsistent with the necessarily independent and autonomous nature of the Public Utilities Commission.

Please convey to the staff and members of the Commission my best wishes for the coming year.

Sincerely,

WAYNE MORSE.

PUBLIC UTILITIES COMMISSION
OF THE DISTRICT OF COLUMBIA,
Washington, D.C. January 11, 1960.

The Honorable WAYNE MORSE,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR: Please allow me to address myself to the matters set forth in your letter to me of December 31, 1959, having to do primarily with the discontinuance of the Cabin John streetcar line as of January 3, 1960.

It is a fact that the adoption by the Public Utilities Commission of the plan proposed by the management of D.C. Transit System, Inc., to effectuate the gradual conversion from street railway to buslines in accordance with the provisions of section 7 of Public Law 757, 84th Congress, was not preceded by a formal hearing. It is our belief that the circumstances of the case did not warrant such a hearing. We have no question as to our statutory authority to hold a public hearing in advance of, or following, the adoption of any specific stage of the conversion operation for the purpose of determining the adequacy of proposed substituted bus service. However, we do not believe that we could with propriety hold a public hearing looking toward the possible retention of streetcars and by so doing circumvent the will of Congress in requiring the Transit Co. to convert from streetcars to buses in an approximate 7-year period.

Up until December 1959 no requests were received by our Commission for hearings relative to the timing of any of the publicized program of the Transit Co. nor as to the adequacy of the proposed substituted bus service. All prior requests for a public hearing on the streetcar-bus conversion program have appeared to be based on a desire to retain streetcar service indefinitely in the future. Our Commission has taken the position that the authority granted to it by section 7; namely, that upon a showing of good and sufficient cause we may extend the time beyond August 26, 1963, did not include the right to countermand the expressed intent

of Congress to convert from streetcars to buses.

Our position that no useful purpose would be served by holding a public hearing had to do generally with the proposed holding of a hearing by our Commission to retain streetcars throughout the District of Columbia. Our specific holding that no useful purpose would be served had to do with a request for a public hearing on the retention of the Cabin John streetcar service. As to this phase of the conversion program, I would like to give you something of a chronological picture of happenings:

The first stages of the 7-year conversion program were effectuated on September 7, 1958, when the company converted its Michigan Avenue-North Capitol and Rhode Island Avenue carlines to motorbus operations. Prior to and as of that date, D.C. Transit had failed to inform the Commission of any subsequent plans or overall program the company had for the elimination of its remaining streetcar routes. Accordingly, on October 3, 1958, the Commission requested the company to provide the details of its complete conversion program through 1963.

On January 14, 1959, D.C. Transit replied to the Commission letter by setting out an eight-stage schedule for replacing streetcars with buses. Stage one was the already-completed Michigan and Rhode Island Avenue conversions; stages two and three, tentatively timed for 1959, were encompassed in the rail substitutions effectuated on January 3, 1960. The replacement of the Cabin John rail service was a part of stage three of the program. The company plan was accepted by the Public Utilities Commission as satisfactory in a January 27, 1959 letter to D.C. Transit, and the completely detailed conversion program was publicized by local newspapers on January 28. There were no requests for a public hearing on the conversion schedule at the time it was accepted by the Commission and announced in the local press.

On November 24, 1959, D.C. Transit formally requested permission, effective January 3, 1960, to discontinue rail operations on the Cabin John, Friendship Heights, and Georgia Avenue-7th Street routes, in accordance with stages two and three of the program approved January 27, 1959. Authority for the proposed changes was granted by the Commission on December 3, 1959.

Civic opposition developed to only one of the three proposed route changes, the Cabin John rail substitution. Much of the opposition appeared to be based on the proposed substitution of a shuttle-bus service for that portion of the rail operation in Maryland. Although the matter of the operation in Maryland was a matter beyond our jurisdiction, we had concern as to the adequacy of service under the proposed substituted bus service and, with a view of correcting the situation before the substitution became operative, we held an informal public hearing in our offices on December 11, 1959, to which we invited representatives from civic associations in the areas affected (including Maryland groups) and representatives from D.C. Transit. A staff member of the Maryland Public Service Commission was present in an observer capacity. As a result of the discussion we suggested to D.C. Transit that it establish an additional rush-hour bus service to link directly the MacArthur Boulevard area, near the District line with the Federal Triangle employment area. This new operation was effected by our Order No. 4604, dated December 21, 1959.

I enclose a copy of identical letters which were sent to persons present at our December 11 hearing in their respective representative capacities. This letter will reveal to you our position taken in the Cabin John matter and is also an expression of our preparedness to hold public hearings in this and other instances where the purposes sought are within our jurisdiction. I enclose the orders issued incident to this phase of the conversion.

You are perhaps aware of the fact that as of November 24, 1959, there was before us a hearing instituted by D.C. Transit seeking an increase in rates. That case is still pending and testimony will again be taken on January 25, 1960. A representative of D.C. Transit testified in this hearing that the remaining routes to be converted would be so converted by August 1963. A request was made at that time that detailed information on the remaining stages be furnished our Commission. Thereafter, and by letter of December 30, 1959, we directed D.C. Transit to provide the company's best estimate of the specific dates for the remainder of the conversion program. As soon as the company provides this requested information we shall see that you are furnished with a copy thereof.

Our Commission has endeavored to keep itself informed on all phases of the mass transportation survey. We reviewed the study's conclusions and recommendations when they were released. Two members of the Commission (Commissioner Kertz and I) testified last year before a subcommittee of the House Judiciary Committee at hearings on the Washington metropolitan area transit regulatory compact. Commission staff members were present at all of the recent sessions of the joint congressional committee hearings on Washington metropolitan area transportation problems, and have reported to us thereon. The Commission has requested printed copies of those hearings, as soon as they become available, for a more detailed review of the testimony. We have encountered nothing so far which would interfere with the transit company's proposed plan of implementing the conversion program. In this connection, your attention is invited to the last paragraph of page 69 of "Transportation Plan—National Capital Region." The paragraph states:

"The use of present-day streetcars for express service was also considered, but rejected. Streetcars do not have sufficient capacity to carry the passenger volumes that will be attracted to the two recommended rail transit routes. Substitution of streetcars for express buses on any of the other routes would require extensive construction not needed by buses, similar to that envisaged in the hypothetical rail transit system. Costly downtown subway construction for streetcars would not be justified by their low carrying capacity. Omission of subways would require operation of streetcars on surface streets as at present."

"Transportation Plan" (p. 70) also states:

"The use of existing railroad tracks and the sharing of railroad rights-of-way was considered, but found to be an unsatisfactory arrangement on most routes. Some use of railroad property is proposed for the route to Alexandria, but in other cases the small number of vehicles that could be operated on railroad facilities in the peak hours without interfering with railroad operations constitutes a serious drawback. Other difficulties include the present lack of a downtown distribution system and the present lack of railroad rights-of-way through many of the areas needing rapid transit service."

We are presently unaware of any circumstance that would justify any step on our part to delay placing into operation stages of the transit company's conversion program, as it is presently known to us.

Please know that we are happy to furnish you any information which you desire at our hands.

Our Commission and staff wholeheartedly return to you our best wishes for the coming year.

Sincerely yours,

GEORGE E. C. HAYES,
Chairman.

PUBLIC UTILITIES COMMISSION,
OF THE DISTRICT OF COLUMBIA,
Washington, D.C., December 21, 1959.

DEAR ———: The Commission has considered the oral and written representations made by you and by other representatives of civic groups at the informal hearing in the office of the Commission on December 11, 1959, with respect to (1) the advisability of converting at this time the Cabin John line (Route 20) from streetcar to bus operations; (2) the adequacy of proposed bus substitution on Cabin John line; and (3) the need for a public hearing with respect to 1 and 2 above.

We shall discuss the representations in the order stated.

CONVERSION OF CABIN JOHN LINE

Section 7 of the franchise granted D.C. Transit System, Inc. (Public Law 757, 84th Cong., 2d sess.) provides that the company "shall be obligated to initiate and carry out a plan of gradual conversion of its street railway operations within 7 years" from July 24, 1956.

The Commission considers that the company has a contractual obligation to convert within the prescribed time. The Commission also considers that it has the duty to see that the company performs its obligation under the franchise in an orderly and efficient manner consistent with the public interest.

At the request of the Commission the company filed a program setting forth the contemplated stages of conversion from street railway to bus operations to comply with the provisions of section 7 referred to above. The Commission concluded that the conversion program proposed by the company would satisfactorily meet the congressional mandate set forth in section 7 of the Franchise Act. Pursuant to such program, the company in September of 1958 embarked on stage 1 of the conversion program by substituting bus operations for rail operations on the North Capitol Street line between 12th and Monroe Streets NE., and Washington Circle, and on the Maryland line between Branchville in Maryland and Potomac Park. The company has now requested authority to accomplish stage 2 of its program by substituting bus operations for rail operations on the Georgia Avenue-Seventh Street line (routes 70, 72, and 74), the Tenleytown-Pennsylvania Avenue line (route 30), and the Cabin John line (route 20)—such substitutions to be made as of January 3, 1960.

The Commission has been mindful of the congressional mandate that there shall be "a gradual conversion" over a period of 7 years. The necessity for a program of gradual conversion is obvious. The magnitude of the overall program prohibits a simultaneous conversion of all the lines involved. The only practical course of meeting and solving the operating and economic problems incident to conversion is to effectuate the conversion by well-planned stages. The stages of conversion proposed by the company and approved by the Commission resulted from separate as well as joint studies on the part of the company and the Commission covering a period of more than 2 years, and the program which eventually evolved was well publicized in the press.

The Commission considers that the conversion contemplated by stage 2 is a logical and necessary step in accomplishing the overall plan. Completion of stage 2 will mean that approximately 50 percent of required con-

version will have been accomplished within the first half of the allotted period of 7 years.

It has been suggested by interested parties that stage 2 of the conversion plan be accomplished without including the Cabin John line. This suggestion has received our earnest consideration. The Commission is of the opinion that the elimination of the Cabin John line from stage 2 of the program would pose many practical operating problems. Even if it could be shown that the operating problems resulting from the elimination of the Cabin John line from stage 2 could be successfully overcome, there would remain the very substantial economic problems of operating the Cabin John line following the abandonment of street railway operations on Wisconsin Avenue. Experience dictates that such an operation would involve unwarranted financial loss which in the final analysis would have to be subsidized by other transit riders. The Commission can only conclude that if stage 2 of the conversion program is to be successfully accomplished it must include the Cabin John line.

It has also been suggested by interested parties that conversion of the Cabin John line be postponed until the public has had an opportunity to present its views as to the advisability of converting the line either now or hereafter. It has been the policy of this Commission to accede to requests for a public hearing when the issue in dispute involves an exercise of authority or discretion on the part of the Commission. In the instant matter, however, the Commission does not possess the statutory authority to take any action contrary to the specific mandate of section 7 of the Franchise Act. The Commission is, therefore, foreclosed from granting a hearing on the merits as to whether the Cabin John line should or should not be converted from street railway to bus operations, as it must be assumed that Congress was fully cognizant of the pros and cons of conversion and gave full consideration to the same when it directed that the company should convert in 7 years. It follows, therefore, that no useful purpose would be served by a public hearing.

Even if a strained interpretation of the Franchise Act would permit the Commission to delay the conversion of the Cabin John line, such delay, as indicated above, could not be justified either from an economic viewpoint or from an operational viewpoint.

In view of the foregoing, the Commission has concluded that it is in the best interest of the public to permit D.C. Transit System, Inc., to abandon streetcar operations on the Cabin John line in conjunction with like abandonment on the Tenleytown-Pennsylvania Avenue line and the Georgia Avenue-Seventh Street line.

We enclose for your information a copy of our Order No. 4602 entered today authorizing the company to proceed to abandon streetcar operations in accordance with section 1 of the order.

ADEQUACY OF PROPOSED BUS SERVICE ON FORMER ROUTE 20

It has been suggested by you and other interested parties that the proposed bus service to be substituted for the Cabin John line is inadequate in that it does not provide as good service as that presently being received by Cabin John streetcar riders. The Cabin John line operates between Cabin John, Md., and Union Station via Prospect Street, 36th Street, 35th Street, O Street, P. Street, Wisconsin and Pennsylvania Avenues. With respect to that part of the route west of Georgetown, the proposed bus service must of necessity operate on MacArthur Boulevard as there is no other roadway on which buses can operate. The company proposes to operate a shuttle bus from the District line to Manning Place, where it will connect with the existing D-4 Bus Line. The route D-4 bus operates on MacArthur Boulevard westbound from Foxhall Road to Manning Place, and eastbound from Manning Place to Q Street and thence on Q Street to Foxhall Road. Thus far the substitute bus service generally parallels streetcar route 20 although requiring a transfer at Manning Place. The necessity for a transfer at Manning Place cannot be avoided as the 12,000-pound weight limitation imposed on MacArthur Boulevard will not permit the operation of a normal-size bus. From Foxhall Road the D-4 route operates to Georgetown via Reservoir Road, 35th Street, and Q Street, and thence to the downtown area. This route does not serve the same area presently served by Route 20 between the junction of MacArthur Boulevard and Canal Road and downtown Pennsylvania Avenue. For those desiring to reach the downtown area via Pennsylvania Avenue a transfer can be made at Wisconsin Avenue and Q Street.

The Commission fully realizes that the requirement of a transfer at Manning Place and a second transfer at Wisconsin Avenue for those desiring to reach the downtown area via Pennsylvania Avenue would constitute a hardship involving inconvenience and delay. In order to ameliorate an admittedly undesirable situation and to provide fast one-transfer service to the downtown area via Pennsylvania Avenue, the Commission is requiring the company to add a new rush period route to be known as D-3. This route will operate between MacArthur Boulevard at Manning Place and 9th Street and Constitution Avenue via MacArthur Boulevard, Foxhall and Canal Roads, M Street, Pennsylvania Avenue, 23d Street, and Virginia and Constitution Avenues. It will provide direct service for residents of the MacArthur Boulevard area and transferees from the Cabin John shuttle bus line to the Potomac Park and Federal triangle areas.

The Commission has had the benefit of engineering and traffic studies by both the company and its own staff and is of the opinion that the combined D-4 and D-3 bus services will give the residents of Maryland and of the District presently being served by Route 20 adequate public transportation. Accordingly, the Commission has concluded to authorize the proposed substituted bus service as set forth in section 2 of order No. 4602 referred to above, and to institute additional rush hour service in accordance with its order No. 4604, a copy of which is enclosed for your information.

It has also been suggested by interested parties that the adequacy of the proposed bus substitution on the Cabin John line be made the subject of a public hearing. Ordinarily the Commission would be most happy to accede to this suggestion but we do not believe that a public hearing would produce any facts which have not already been presented to this Commission by the interested parties.

Moreover, it is believed that the new D-3 rush hour service now required of the company will meet most, if not all, of the objections previously advanced.

The Commission proposes to make a continuing investigation as to whether the substituted bus service on the Cabin John line adequately fills the needs of the area residents. Should experience prove that the substituted bus service as now proposed is not adequate, the Commission will give favorable consideration to a request for a public hearing.

We desire to assure you and your associates that the Commission will cooperate in every way possible in providing good and adequate service.

By direction of the Commission.

NORMAN B. BELT,
Executive Secretary.

Mr. MORSE. Mr. President, in reviewing these matters which I have just brought to the attention of the Senate, I have become about convinced that to unravel this interlocked skein of congressional action, D.C. Transit action and Public Utility Commission action is important and justified, and I have asked myself how best it could be accomplished.

As far as I am concerned, there is one question of fact which seems to me to be controlling in this matter once we are sure that we have all the facts necessary for a sound answer to the question. That question of fact is this, "Will the mass transportation needs of the District of Columbia be best served now and for the future by the elimination of the streetcar system?"

To answer this question we must know what the current facts are in regard to the relative cost of an all-bus system in comparison with a partial bus system and a partial streetcar system. We need to know what the effect of a dual system would be on fare rates. We need to know which system will move the greatest number of riders to and from their work in the District of Columbia at the lowest fares, the shortest time, and with the greatest comfort and efficiency, and at the same time permit the D.C. Transit Co. to earn a fair rate upon its investment.

On the basis of the representations which have been made to me by those who are urging that the District of Columbia should not reduce further its streetcars, I have come to the conclusion that further conversion from streetcar service from bus service should be delayed until Congress can review this problem and make certain as a result of thorough public hearings that an all-bus service is in fact the transportation system which will best meet the transportation needs of the citizens of the District of Columbia.

In this connection, the report of the House Committee on Interstate and Foreign Commerce in the 84th Congress, in commenting upon the conversion program contained in the House bill is worthy of note for the word of caution it contains.

Mr. President, I ask unanimous consent that material from pages 14 and 15 of the House report to which I have made reference be printed in the RECORD at this point in my remarks.

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

SECTION 6. CONVERSION OF STREETCAR OPERATIONS TO ALL-BUS OPERATIONS

As has been mentioned, the invitations to bid issued by the Public Utilities Commission relative to a successor private operator restricted applicants to an all-bus system. The public authority contemplated by the legislation introduced was also based on all-bus operations. As will appear from the hearings, the District Commissioners expressed the view that immediate conversion to all-bus operations is desirable although witnesses representing civic groups urged retention of street railway service.

In 1955, the Capital Transit Co. retained W. C. Gilman & Co. to study and make a report on the desirability of conversion of street railway operations to motorbus, and, if conversion were desirable, what the conversion

timing should be. This report, submitted September 26, 1955, which is set forth in full in the committee hearings at pages 287–307, recommended a conversion program calling for completion about 1962.

In reaching its conclusions, W. C. Gilman & Co. stated it had studied and considered the following:

(1) The extent of the existing street-railway operations, the physical plant used for such operations, and the type and quality of service which that plant is furnishing.

(2) The prospective and reasonable service life of that street-railway plant and the dates at which specific portions of that property will require substantial capital expenditures for replacements.

(3) The type and quality of substituted motorbus service, its relative rider appeal, and the capital costs and physical problems involved in a conversion to such service.

(4) The effect of such motorbus substitution, or lack of it, on the general traffic situation in Washington and on proposed highway improvements in the area.

In the light of these and other factors, W. C. Gilman & Co. concluded:

"Based on the existing overall conditions of the rail system and the quality of service being furnished, it is our opinion that an immediate complete conversion to motor bus of the entire streetcar operation would be an economic waste that would not be justified by the service results which could be secured. We have developed, however, a conversion program for Washington to be completed over the next 7 or 8 years. The approximate timing of the abandonment of various sections of the present rail operations has been determined so as to make unnecessary the major portion of the expenditures which have been estimated would be required at various times for track replacements at various locations if rail service is to be perpetuated. This will permit the realization of several years of additional service life from major portions of present rail property, although still not to the extent to which such potential service life has been used up in other cities before conversion to rubber-tired vehicles."

It is obvious that if there were to be a complete cessation of street-railway service in the District this coming August, as was contemplated by the Commissioners of the District, it would be impossible to furnish to the residents of the area the full transit service to which they are entitled. However, the committee approves gradual conversion to an all-bus operation within a reasonable time, in the interest of economy and efficiency of operation.

Accordingly, the committee has included this section making it the duty of the Capital Transit Co. to carry out a plan of gradual conversion of its street-railway operations to bus operations in general conformity with the economic concepts contained in the Gilman report, above referred to.

Mr. MORSE. Mr. President, Senators will note that the W. C. Gilman Co. in its conclusions, based upon its study, recommended against an immediate conversion at that time as an economic waste. Further it will be noted that the 7- to 8-year conversion program which was developed by the company was done for the purpose of obtaining additional years of service life for the rail equipment. The last point to be noted is the language of the consultant firm when it states that even with the 7- to 8-year postponement major portions of the rail property would not be used up to the extent of potential service life of comparable equipment in other cities.

I ask unanimous consent that a letter from the W. C. Gilman Co., enclosing their report, be printed at this point in the RECORD.

There being no objection, the letter and report were ordered to be printed in the RECORD, as follows:

CAPITAL TRANSIT CO. REPORT ON CONVERSION OF STREET RAILWAY OPERATIONS TO MOTORBUS

W. O. GILMAN & CO.,
New York, N.Y., September 26, 1955.

Report on a program of conversion to motorbus of the street railway operations of Capital Transit Co.

MR. J. A. B. BROADWATER,
President, Capital Transit Co., Washington, D.C.

DEAR SIR: Transmitted to you herewith is our report on whether the street railway operations of Capital Transit Co., should be converted to motorbus and, if so, what the conversion timing should be. In reaching our conclusions on this matter we have studied and considered the following:

(1) The extent of the existing street railway operations, the physical plant used from such operations, and the type and quality of service which that plant is furnishing;

(2) The prospective reasonable service life of that street railway plant and the dates at which specific portions of that property will require substantial capital expenditures for replacements;

(3) The type and quality of a substituted motorbus service, its relative rider appeal and the capital costs and physical problems involved in a conversion to such service, and

(4) The effect of such motorbus substitution or lack of it, on the general traffic situation in Washington and on proposed highway improvements in the area.

Our summarized conclusions are as follows:

(a) The present street railway plant is an exceptionally good one and comprises a major part of the Capital Transit system. To show the relationship of this rail operation to the total system the following basic facts with respect to it are set forth below:

	Streetcar system units	Streetcar in percent of total system operations
Passenger revenues [1]	$13,388,889	51.2
Revenue passengers [1]	83,466,603	50.4
Streetcar-miles operated [1]	12,254,997	36.1
Streetcar-hours operated [1]	1,479,507	40.3
Street miles of route [1]	72	18.0
Miles of single track:		
Conduit [2]	80.54	
Overhead trolley [2]	63.39	
Total [2]	143.93	
Number of primary streetcar routes [2]	14	
Streetcars required for 1954 fall schedules, excluding spares	379	33.3
Streetcars owned [2]	508	36.4
Number of operating car stations [2]	6	
Number of substations [2]	20	

[1] Year ended Dec. 31, 1954.
[2] As of Dec. 31, 1954.

This rail system is currently providing safe and comfortable transportation at speeds which, for a large part of the operations, are much below the operating capabilities of the streetcars and the track because of the interference to such service caused by general vehicular traffic.

(b) The service furnished by the present rail system is good and would be improved little, if any, by motorbus substitution, except for increased flexibility in case of delays and possibly more express service where warranted by traffic volumes. In many respects the well-maintained PCC car on good track has a greater rider appeal than a motorbus. Under comparable operating conditions the PCC cars in Washington maintain speeds equal to the motorbuses. There is not in Washington, the picture of wornout and sometimes unsafe track frequently combined with old, uncomfortable and slow-moving streetcars which has been present in practically all cities where long-term programs for conversion from rail to bus have been completed or are still in progress. The present rail operations of the company are far from obsolete either physically or functionally.

(c) The present streetcar property was well built and has been well maintained. The average remaining service life of the present rail system as a whole is, in our opinion, in excess of 20 years. The cars are in uniformly good condition. The same is true of the buildings with minor exceptions. As would be expected, the track condition covers a wide range from sections which will require extensive work within the next few years to sections which are as good as new and can render service for the next 35 or 40 years, with an overall average present condition approximating that of the system as a whole.

Unfortunately, the poorer and better sections of track are scattered throughout the system and the various routes, and the poorer track is not necessarily at the outer ends of the lines. Frequently the reverse is true. Track replacements, therefore, necessary for the continuation of rail service will be required on different parts of the system at various dates in the future. The estimated expenditures required for these replacements of conduit track are as follows:

Estimated cost of replacements—Conduit track

Approximate time periods:	
1955–65	$7,573,000
1966–75	7,056,000
1976–85	5,078,000
1986 and thereafter	11,303,000
Total	31,010,000

Similar replacement requirements for overhead trolley track are nominal for the next 15 years.

(d) The physical and financial problems incident to a conversion to motorbus of the entire street railway service of Capital Transit, and particularly to an expedited or immediate conversion, are substantial and would include the following:

1. The purchase of some 430 51-passenger motorbuses at a cost of approximately $9,460,000.

2. The reconstruction of existing car stations, enlargements of present garages or the development of new garage locations to provide facilities for the fueling, lubricating, inspecting, and housing of these 430 additional buses, which would, in our opinion, require expenditures of from $2 million to $4 million, depending on the extent to which present facilities could be utilized for the efficient handling of motorbuses and on the extent and costs of the construction required, and would take a considerable period of time. Heating, clearances between columns, the presence of track pits, and conformity with building code regulations for fire protection are some of the problems faced in converting present carhouses.

3. The development of the Fourth Street shops, or elsewhere, of automotive and body-repair facilities capable of handling efficiently the maintenance of a motorbus fleet nearly 50 percent larger than the present fleet, which would also take time and for which we estimate that the necessary expenditures would run from $1 million to $2,500,000, again depending on the adaptability of the existing plant.

4. The training of some 600 operators for motorbus operations and a substantial number of mechanics for automotive inspection and maintenance and the making of adequate provisions for any present company personnel not able to qualify for these new occupations.

These several essential steps would require capital expenditures of from $11 million to $16 million and, in our opinion, the minimum time element required for an immediate 100 percent conversion would be from 18 to 24 months. These approximate estimates give no consideration to the costs of removal of permanent loading platforms or track structure from paved streets.

(e) Based on the existing overall condition of the rail system and the quality of service being furnished, it is our opinion that an immediate complete conversion to motorbus of the entire street car operation would be an economic waste that would not be justified by the service results which would be secured. We have developed, however, a conversion program for Washington to be completed over the next 7 or 8 years. The approximate timing of the abandonment of various sections of the present rail operations has been determined so as to make unnecessary the major portion of the expenditures which have been estimated would be required at various times for track replacements at various locations if rail service is to be perpetuated. This will permit the realization of several years of additional service life from major portions of present rail property, although still not to the extent to which such potential service life has been used up in other cities before conversion to rubber-tired vehicles.

(f) Our recommended conversion program consists of five phases, the timing of each and the major conversions in each phase being as follows:

Phase	Timing	Major streetcar operations discontinued
1	1956–57	West end of Mount Pleasant (routes No. 40 and No. 42) west of 14th and H Sts. NW. 13th and D, NE (route No. 42) east of Union Station Plaza. 11th and Monroe (route No. 60), entire line. Routes No. 90 and No. 92 west of 14th and U Sts. NW. Double tracks in south half of Union Station Plaza.
2	1957–58	Maryland Line (route No. 82) north and east of 5th and G Sts. NW.
3	1958–59	All rail service west of Pennsylvania Avenue and 19th St. NW. (routes No. 20, Cabin John; No. 30, Friendship Heights; No. 80, Rosslyn). Route No. 92 from Florida and New Jersey to 8th and Pennsylvania Ave. SE. Bureau of Engraving (route No. 50), south of 14th and Pennsylvania Ave. NW.
4	1960–61	14th St. (routes No. 50 and No. 54) north of 14th and G Sts. NW. 7th St. and Georgia Ave. (routes No. 70, No. 72 and No. 74) north of 7th and Pennsylvania NW. East Capitol (route No. 40) east of 1st St. east. Pennsylvania Ave. and 7th St. NW. to Independence and 1st St SE., all of 1st St. west and all track from 5th to G NW. on 5th, Indiana Ave. and C St. North to 1st and C Sts. NE. Pennsylvania Ave., 8th St. SE. to Barney Circle.
5	1961–62	All remaining track, which would include F and G Sts. NW., New Jersey Ave., 7th St. south of Pennsylvania, Independence Ave. from 7th St. to and including the Southwest Mall Loop, north half of Union Station Plaza, 1st East and Pennsylvania and 8th St. SE. From 1st and Independence SE to the Navy Yard.

This program, in our opinion, could be accomplished with expenditures for track replacements in the 7 years between now and 1962 of approximately $1 million and would require the purchase of new buses as follows:

Estimated bus purchases for conversion

Years	Number of buses	Estimated costs
1956–57	90	$1,980,000
1957–58	30	660,000
1958–59	115	2,530,000
1960–61	115	2,530,000
1961–62	80	1,760,000
Total	430	9,460,000

The expenditures for bus inspection, fueling, and housing facilities would be similarly spread over the period. No expenditures would be required for the construction of new track or track connections. From 1 to 7 or possibly 8 years of additional service life would be realized from present streetcar property and even then the streetcars, most of the overhead trolley tracks and substantial portions of the conduit track would go out of service many years before the end of their potential future service life.

We believe that this conversion program will present no serious interferences with proposed highway improvements.

(g) Traffic congestion is caused primarily by too many vehicles in relation to available street space rather than by the type of vehicle. It is our opinion that many conclusions as to the causes of and possible remedies for traffic problems are based too frequently on sentiment rather than on facts. Transit vehicles of any type do contribute somewhat to traffic delays, but so do all other types of vehicles. It is our opinion that the conversion of present streetcar operations to motorbus will have no material effect on the general traffic situation except at the 53 locations (out of a total of 487) where general traffic is prohibited from using the traffic lane to the left of streetcar loading platforms. Of these 53 locations, 24 are on Pennsylvania Avenue, an exceptionally wide street.

(h) We are living in a motorized age. Millions of dollars have been spent in Washington and elsewhere and similar future expenditures are contemplated in attempts to enable motor vehicles to move more freely. None of these expenditures have been or will be of much, if any, benefit to mass transportation and many actually make local transit operations more difficult. The real problem is the movement of people and essential goods. A large part of these expenditures could be saved if existing street space were used more efficiently as would be the situation if more of the public used transit vehicles, particularly in the congested areas. Unfortunately the trend is the other way, primarily because of this subsidized competition with which transit has to compete without the benefits of any similar assistance.

Very truly yours,

W. C. GILMAN & Co.

REPORT ON CONVERSION OF STREET RAILWAY OPERATIONS TO MOTORBUS, SEPTEMBER 26, 1955

PURPOSE AND SCOPE OF REPORT

This report, and the study on which it is based, have been undertaken by us at the request of Capital Transit Co. as one of the matters agreed to in the Memorandum of Understanding issued by the Public Utilities Commission of the District of Columbia under date of August 6, 1954. The problem involved is whether the present street railway operations of Capital Transit Co. should be converted to motorbus operations and, if so, what the conversion timing should be.

The solution of the problem requires the consideration and weighing of the effects of such a conversion on transit service and on the users of such service, on the community in general and on Capital Transit Co. or any other operator which in the future may be supplying transit service to the District of Columbia. More specifically this involves consideration of the present physical condition of the existing street railway plant, the type and quality of service which that present plant can continue to furnish, the prospective reasonable service life of that plant prior to the time when there will be the necessity for substantial capital expenditures for replacements, the type and quality of a substituted motorbus service and its relative rider appeal, its capital costs and the effect of such motorbus substitution or lack of it on the general traffic situation in Washington and on proposed highway improvements in the area. All of these matters are discussed in detail is various sections of this report.

RELATION OF PRESENT RAIL OPERATIONS TO TOTAL SYSTEM

In order to develop a proper perspective, we have set forth below certain indicative figures for the total operations of Capital Transit Co. and the division of these total figures between present bus operations and street railway operations. The tabulated data is for the year ended December 31, 1954, unless otherwise indicated:

	Total Capital Transit System	Present motorbus	Streetcar operations	
			Amounts	Percent of system total
Passenger revenues	$26,153,391	$12,764,502	$13,388,889	51.2
Revenue passengers carried	165,742,957	82,276,354	83,466,603	50.4
Vehicle-miles operated	33,901,214	21,646,217	12,254,997	36.1
Vehicle-hours operated	3,673,405	2,193,898	1,479,507	40.3
Vehicle-miles per vehicle-hour	9.23	9.87	8.28	
Maximum vehicles required for 1954 fall schedules, excluding spares	1,137	758	379	33.3
Street-miles of operation [1]	400	328	72	18.0
Per vehicle-mile:				
Passenger revenues	$0.77	$0.59	$1.09	
Revenue passengers	4.89	3.80	6.81	

[1] As of Dec. 31, 1954.

The figures above indicate that the streetcars, representing 33.3 percent of total scheduled vehicles and 36.1 percent of the vehicle-miles, collected 51.2 percent of system passenger revenues in 1954 and carried 50.4 percent of system revenue passengers. It is evident from these comparisons that the present streetcar operations comprise a major portion of the transit system.

The streetcar passenger revenues were $1.09 per car-mile and the bus revenues were $0.59 per bus-mile operated. Corresponding revenue passengers per vehicle-mile were 6.81 for the streetcar operations and 3.80 for the present bus operations. The passenger volumes carried per vehicle-mile are substantially larger for the streetcar operations than for the motorbus operations. This is not due to the fact that the one type of service is streetcars and that the other type is motorbus. These differences in traffic volume characteristics are due to the locations

of the streetcar routes as a whole and to the areas served by them as compared with the locations of the bus routes as a whole and the areas served by them.

As shown by map 1, the streetcar routes all pass through the downtown area of Washington and in general do not extend into the outer areas of the District of Columbia or into Maryland. In contrast, many of the motorbus routes are crosstown lines which do not enter the downtown area or are routes radiating from the outer terminals of rail lines so that a larger proportion of the mileage of the bus system is in the outlying areas, including Maryland. These differences in traffic and operating characteristics are reflected also in the average operating speeds, which are 8.28 miles per hour for the streetcar operations as a whole and 9.87 miles per hour for the present bus operations as a whole.

These differences in the operating and traffic characteristics of those two portions of the present system which now happen to be streetcar or motorbus operations will continue to exist irrespective of the type of service.

THE PRESENT STREETCAR SYSTEM

Trackage

The present rail system of Capital Transit consists of 143.93 miles of single track. Of this total, 80.54 miles of single track are of conduit or underground trolley type of construction. The remaining 63.39 miles of single track are of the more conventional overhead trolley type of construction. There are five locations on the system where there are "plow pits" at which a change is made from conduit operation to overhead trolley operation outbound and the reverse change is made inbound. These pits, in which the current collector plows used on conduit track are detached or attached, are located as follows:

LOCATIONS OF PLOW PITS AND ROUTES USING PITS

1. End of Prospect Avenue west of 36th Street NW.: Cabin John (No. 20).

2. Wisconsin Avenue north of P Street NW.: Friendship Heights (No. 30).

3. Georgia Avenue and Barry Place NW.: Georgia and Alaska (No. 70), Takoma (No. 72), Soldiers Home (No. 74).

4. North Capitol Street and W Street: Brookland (No. 80).

5. T Street east of 3d Street NE.: Branchville (No. 82).

All of the other rail routes operate entirely on conduit track.

The rail system is essentially 100 percent double tracks for operational purposes. At a few locations there is one-way operation on a single track on one street with the reverse direction operation on a single track on an adjoining street. The only case of two-way operation on a single track is the 0.21 mile at the outer end of the Branchville line (Route No. 82). The rail system, therefore, represents approximately 72 route-miles.

All of the track of the company in the District of Columbia, with minor exceptions, is in the street center and is paved. The two most important exceptions are Pennsylvania Avenue SE. from Independence to Barney Circle where the tracks are in a reservation strip in the center of the street with the track zone paved, and Independence Avenue between First Street SW. and First Street SE. where the double tracks are in the street pavement but adjacent to the north curb. All of the track in Maryland is on private right-of-way and is unpaved except at highway crossings.

Much of the trackage is used by two or more streetcar routes. Of the total conduit track mileage approximately 45 percent is jointly used and of the overhead trolley track mileage approximately 12 percent is similarly used, giving a system total of 31 percent or about 44 miles of single track which is jointly used. This is all in the District of Columbia.

Streetcars

The company owns 508 streetcars, 488 of which are PCC type (President's Conference Committee) and the remaining 20 are "Streamliners" which are similar in design and operating characteristics. The number of streetcars needed to fill the maximum requirements of the 1954 fall schedules was 379, excluding spares. This total was divided by routes as follows:

Maximum streetcars needed for schedule requirements

Route No:	
20	16
30	46
40–42	73
50–54	58
60	13
70–72–74	56
80	27
82	38
90–92	52
Total	379

These streetcars represent the most modern design. They are capable of maximum rates of acceleration, deceleration, and free running speed. The average seating capacity is 49. They are equipped with trucks and wheels which were especially designed to give quiet operation and smooth riding. They are well lighted, ventilated and heated.

Carhouses

These streetcars are housed at 6 carhouse locations at which are also located facilities for divisional supervisory personnel, station cashiers, and streetcar operators as well as for the washing, cleaning, and inspecting of the streetcars. The carhouses, their locations and the numbers of cars assigned at each are as follows:

Station	Location	Streetcars assigned
1. Eastern	East Capitol and 14th and 15th Sts. NE.	111
2. Navy Yard	8th and L and M Sts. SE.	81
3. Northeastern	4th and T Sts. NE.	86
4. Northern	14th and Decatur Sts. NW.	103
5. Southern	Maine Ave. and P St. SW.	83
6. Western	Wisconsin and Harrison NW.	44
Total		508

Streetcar routes

The present streetcar operations of Capital Transit comprise 14 routes which are in reality 9 trunkline routes with various branches or split terminals, as listed below:

Route number	Between	And
20	Union Station	Cabin John.
30	Friendship Heights	17th and Pennsylvania Ave. SE.
40	Mount Pleasant	Lincoln Park.
42	do	13th and D Sts. NE.
50	14th and Colorado NW.	Bureau of Engraving.
54	do	Navy Yard.
60	11th and Monroe NW.	Pennsylvania Ave. and 6th St. NW.
70	Georgia and Alaska NW.	Southwest Mall.
72	Takoma	7th Street Wharves.
74	Soldiers' Home	Do.
80	Brookland	Rosslyn.
82	Branchville	Potomac Park.
90	Calvert Street Bridge, Northwest.	17th and Pennsylvania Ave. SE. via New Jersey Ave.
92	do	Navy Yard via Florida Ave.

During the rush hours certain cars are operated to short route or intermediate terminals and service from several routes is operated to special areas such as the Navy Yard, Southwest Mall, Bureau of Engraving, and Potomac Park to supplement basic route services and reduce the necessity for passenger transfers.

These car houses are individually described in more detail in following paragraphs.

CONDITION OF PRESENT RAIL SYSTEM

We have carefully examined the present streetcar operations by riding all of the routes and noting rail wear and alinement and the condition of track zone pavement. We have visited and inspected the car houses and shops and noted the layout, type of construction, and present condition of the buildings at each location. Our extensive riding of the routes and our car house and shop inspections have enabled us to form an opinion as to the condition of the streetcars. Our own observations as to these matters have been supplemented by an examination of certain operating records and special studies prepared by the company.

The streetcars are in exceptionally good condition. The following records indications of this:

Year	Armature failures		PUC inspections	
	PCC cars in service	Armature failures	Number of cars inspected	Number of cars reported with defects
1946	489	57		
1947	489	35	729	427
1948	489	26	603	327
1949	489	8	649	312
1950	509	7	509	239
1951	509	10	509	205
1952	509	3	509	188
1953	509	15	509	133
1954	509	9	509	125

With a continuation of adequate maintenance, the present fleet of PCC cars can continue to operate efficiently for an almost indefinite period.

The average estimated service life of conduit track is 40 years and the average estimated remaining life of such track is at least 20 years. This is indicated by the estimated annual expenditures required in future years for conduit track reconstruction. Such reconstruction costs for the 80.54 miles of conduit track are estimated at approximately $31 million distributed over future periods as follows:

Estimated required expenditures for reconstruction of conduit track

Future periods:	
1955–65	$7,573,000
1966–75	7,056,000
1976–85	5,078,000
After 1985	11,303,000
Total	31,010,000

The average remaining estimated service life of the overhead trolley track is even longer with only minor amounts of reconstruction required within the next 10 years.

Special work for both types of track is replaced on a piecemeal basis wherever possible rather than on the basis of an entire installation. Out of 20,783 lineal feet of special work track, only 3,511 lineal feet is estimated for replacement in the next 10 years.

The car house and shop buildings are, with minor exceptions, substantial structures which have been well maintained and have an almost indefinite future service life under present conditions of use. The principal exception is western car house.

RELATIVE RIDER APPEAL

Unfortunately transit systems are not in a position to provide as much rider appeal

in their services as both the transit operators and the public desire. The two major factors conducive to building up rider appeal are increased speed of operation and greater rider comfort. The comments in this section represent our conclusions as to the extent to which an immediate or expedited conversion of the Capital Transit streetcar service to motorbuses would generate improvement in rider appeal.

The speed of operation of transit service is determined primarily by the combination of three major factors; namely, (a) the operating characteristics of the transit vehicle, (b) the time consumed by passenger stops and the loading and unloading of passengers, and (c) the time consumed by the inability of transit vehicles to utilize their potential operating characteristics because of the interference of other vehicular traffic and the additional or lengthened stopping time resulting from traffic-control devices or traffic officers.

As expressed elsewhere in this report the potential operating characteristics of the PCC-type streetcars as to acceleration, deceleration, and maximum running speed are at least equal to the modern bus. As shown above the average realized speeds for present system motorbus operations are greater than for system streetcar operations, but this is not due to the primary operating characteristics of the two types of vehicles. It arises from the average system conditions under which the two types of service operate. The major part of present system motorbus mileage is in outlying areas where general traffic is less congested. The streetcar routes are more generally confined to the more heavily congested area and, in addition, handle larger volumes of passengers.

Our observations are that where there is no outside interference with either vehicle the PCC cars in Washington can usually keep pace with a bus and can sometimes cover ground more expeditiously. Under rush-hour conditions of general traffic we have seen a PCC car keep pace with the paralleling lines of automobiles for over half a mile in spite of traffic lights and passenger interchange.

While left turning general traffic frequently imposes substantial delays to streetcar progress, right turning general traffic causes greater delays to buses than to streetcars. The motorbus is more flexible in case of delays, caused by equipment failures or otherwise, and does permit express or limited-stop operation.

For riding comfort it is our opinion that the PCC car has more to offer than the motorbus. It is a roomier vehicle with better lighting, cooler in the summer, and better ventilated in the winter. Its wider aisles and entrance and exit doors facilitate passenger movement within the vehicle as well as when boarding and alighting. On even moderately smooth track the streetcar offers a smoother ride than the bus, free from the bumps and vibrations caused by uneven pavements. The streetcar produces no fumes or odors to irritate either the passengers or the general public.

These comments are made to point out that solely from the standpoint of rider appeal the rail service operated by Capital Transit is not inferior to that offered by the motorbus. This comparison would be even more favorable to the streetcar if its potential operating characteristics could be utilized to a greater extent. From the standpoint of this study these conclusions are important as indicating to us that a conversion from rail to bus in Washington would not offer the same improvement in quality and comfort of service as has resulted from similar conversions in cities such as Minneapolis, St. Paul, Milwaukee, Baltimore, Cincinnati, Buffalo, and New York City. In these and other cities the rail services which have been converted to bus represented principally slow moving and uncomfortable streetcars operating on wornout, and in some cases unsafe, track. These conditions do not exist in Washington.

THE PHYSICAL AND FINANCIAL PROBLEMS OF CONVERSION

The physical job of converting to motorbus a rail system operating some 400 streetcars over 72 miles of route and having passenger revenues of some $13,389,000 a year is a problem of substantial magnitude and cannot be accomplished overnight. This physical job requires the following:

(a) The purchase and procurement of delivery of 450 motorbuses.

(b) The providing of facilities for the storage, inspection, and fueling of these 450 motorbuses.

(c) The revamping of present motorbus shops to provide maintenance facilities for a bus fleet 50 percent greater than that now owned by the company.

(d) The training of operators to operate and mechanics to inspect and maintain these additional buses.

(e) The working out of routes over suitable highways for the buses which would be substituted for streetcars now operating on track located on private right-of-way and determining the methods of bus operation in other locations where present streetcars use off-street facilities.

(f) The preparation of schedules for the operation of these buses.

These are the physical problems. Many of the items will involve financial problems in the form of either substantial cash payments of the making of substantial cash commitments, or both. Both the physical and financial aspects of these items are discussed in detail in the following paragraphs.

Bus requirements

As stated above 379 streetcars were required to meet the maximum schedule requirements for the present rail operations based on 1954 fall schedules. We have examined the maximum load point checks on these streetcar lines and we estimate that 398 motorbuses of 51-seat capacity would be required to furnish the equivalent service during peak hours. These vehicle requirements by routes have been estimated by us as follows:

Vehicles needed to meet maximum schedule requirements

Present streetcar routes Nos.	Streetcars	51-seat buses
20	16	16
30	46	49
40-42	73	78
50-54	58	60
60	13	14
70-72-74	56	57
80	27	30
82	38	41
90-92	52	53
Total	379	398

In order to assure continuity of service an additional 8 percent or 32 buses would be required as spares to provide replacements for buses which would have to be temporarily withdrawn from service for current maintenance requirements or for repairs caused by accidents. Total conversion of all streetcar routes would require, therefore, the purchase of 430 motorbuses. Bus manufacturers have indicated to us that the delivery period on these buses would range from 4 to 8 months depending on the number of buses ordered from a single manufacturer. The current price for a modern 51-seat motorbus is about $22,000 including delivery to the Washington area and the 8 percent Federal tax but excluding tires. A fleet of 430 buses would cost approximately $9,460,000. Financing could probably be arranged on the basis of a minimum down payment of 10 percent or $946,000, with the balance payable over 72 months with interest within the range from 4 to 5 percent.

Bus housing

This new fleet of 430 motorbuses will have to be provided with facilities for cleaning, washing, fueling, and inspection. Off-street storage will have to be provided and even with the climatic conditions in Washington there are operating and cost advantages of having such storage under cover and heated, although the company is storing many of its present buses outdoors. The following are the several possibilities for the solving of this problem:

(a) Utilizing spare capacity in existing bus garages or expanding such facilities by additional buildings on present sites or enlargement of present sites, to the extent that such expansion might be possible at any of the present garage locations.

(b) Utilization of present carhouse structure to the extent that it would prove to be physically and economically feasible to adapt any of these structures for efficient use as motorbus garages, or utilization of present carhouses.

(c) Purchase of new sites and construction of new buildings.

The company now has 6 bus garages, as follows:

Garage location	Total bus storage capacity		Number of assigned buses	Undercover storage capacity
	A	B	C	A
1. Western—Wisconsin Ave. and Harrison St. NW.[1]	105	90	101	70
2. Northern—14th and Decatur NW.[2]	165	140	160	80
3. Central—Georgia Ave. and W St. NW	100	85	86	100
4. Brookland—9th and Michigan NE	195	166	185	56
5. Trinidad—16th and Benning Rd. NE	200	170	183	35
6. Southwestern—Half and M Sts. SE	177	151	136	93
Total	942	802	851	434

[1] Adjoins the rear of Western car house.
[2] Adjoins the rear of Northern car house and utilizes basement level of the car house for bus storage.

A—Based on 35-foot buses.
B—Estimated for 40-foot (51-seat) buses.
C—Buses of assorted sizes, present fleet.

It is obvious from the figures above that present bus garage facilities taken as a group, offer little, if any, additional bus storage capacity when consideration is given to the fact that all future increases in the bus fleet will probably be 40-foot buses. This

means that additional capacity in connection with present garage locations would necessitate the purchase of additional property. Such a procedure would, of course, be expensive, would probably require condemnation and for certain of the locations might encounter the problem of zoning regulations.

From the standpoint of the most economical operation with a 100 percent motorbus fleet, it would be desirable to consolidate as many as possible of the present operating locations. With a total fleet of somewhere around 1,300 buses, operations could be most economically carried on from not to exceed 6 total locations as against the 10 which the system would have if all present garage and carhouse locations were maintained.

The most obvious procedure to provide inspection and housing facilities for some 430 additional buses would be to utilize the present carhouse facilities as they become available with the termination of rail operation. This is the procedure which has been used to a large extent on other properties where streetcar service has been converted into motorbus. In Washington, however, this procedure presents certain serious problems.

Of the six present carhouses, four, namely, northern, eastern, navy yard, and southern are located on the conduit track system. While cars do not operate with the underground trolley on the storage tracks at these carhouses, the plows are left on the cars, which means that all of the storage tracks in these four carhouses are built over pits and the transfer of the cars from the operating tracks to the storage tracks is accomplished by the use of transfer tables. For movement of the cars on the storage tracks the car is powered by a plug-in feeder cable which is energized from a small trolley carriage running on a pair of overhead wires. The conversion of this type of structure from streetcar to motorbus use involves the problem of either filling up or covering over the depressed floor area on which the transfer table operates and the pit space between the rails. With respect to eastern, navy yard, and southern carhouses, there would be no structural problem in this connection as the tracks are located on ground level. At northern carhouse the problem is more serious. The car storage floor which is at street level on the 14th Street side of the building is in fact the second-floor level for the major portion of the building with a ground level floor which opens to the rear of the structure and which is now used for the storage of buses housed at northern garage. The rails in the car storage space on the second floor are supported on columns and beams but there is some question as to whether the concrete floor covering the space between adjacent tracks is of sufficient strength to permit motorbus operation which could not, of course, be confined to the exact location of the present rails.

Another problem, particularly with respect to northern, navy yard, and southern carhouses is that the bays between the supporting roof columns are barely wide enough for two or three lanes of streetcars, as the case may be, and are not wide enough to be utilized for the same number of lanes of free wheeling buses. A further drawback is that in these carhouses, most of the buses would have to be backed into the storage lanes, a procedure which is time consuming and dangerous.

In the case of eastern carhouse the clearances between supporting columns is much more adequate and additional doors could be placed in each end of the structure to permit the through operation of buses. That structure, however, has a considerable amount of exposed steel and some exposed timbers and would probably require extensive fireproofing in order to conform to the building code regulations applicable to structures used for motorbus storage. This problem would not be encountered at northern, navy yard, or southern carhouses as they are reinforced concrete structures.

The two remaining carhouses, namely, western, and northeastern, are located on overhead trolley track and do not have pits except to the limited extent necessary for streetcar inspection purposes. The building structure at northeastern is reasonably modern and that carhouse location could be converted to motorbus use at what might be considered a nominal cost. Western carhouse immediately adjoins western garage and the land area and possibly the present structure could also be adapted to bus use at nominal expense.

At the present time all motorbus maintenance is carried on at the Fourth Street shops, at which the body repair and painting work is done for streetcars. The mechanical and electrical work in connection with streetcar maintenance is now carried on at the M Street shops of the company in Georgetown. Since all motorbus maintenance work for a 100-percent bus fleet should be carried on in one location, there would be no economic justification in attempting to adapt the M Street shops for any portion of bus maintenance. There is some question in our minds as to whether the floor space which would be made available at the Fourth Street shops by the elimination of the streetcar body and paint work would provide a sufficient area for increasing the facilities at that location for the efficient maintenance of a motorbus fleet 50 percent larger than that which the system now has.

These comments are made to point out some of the physical difficulties which will have to be overcome in providing proper storage, inspection, and maintenance facilities for 430 motorbuses. The reconstruction costs involved at all of the present car stations except western and northeastern would be very substantial and it is questionable in our minds whether, even with such substantial expenditures in money, the resulting structures would provide for efficient operation.

Another important aspect of this problem is that little, if any, of the required reconstruction could be carried on as long as streetcar operations were maintained at a given location. This would mean that the major part of the reconstruction work at any one location would have to be done after streetcar operation was terminated from that location and until such work was completed that particular location would not be available as a bus garage. The structures at navy yard car house and Fourth Street shops occupy the entire site area. At eastern car house there is a small open yard at one corner of the site and at southern car house there is a small open yard on an adjacent piece of property.

Based on these various problems which we have discussed, it is our estimate that the provision of adequate storage and servicing facilities for 430 additional buses would involve expenditures ranging from a minimum of $2 million to as much as $4 million and that the providing of adequate shop facilities for the increased bus fleet would involve costs from $1 million to $2,500,000, depending in each case on a more careful study of the properties to determine to what extent the present sites and structures could be utilized.

Other conversion problems

All present streetcar operators have not qualified as motorbus operators, and some of them would not be able to meet the requirements for such operations. It would be necessary, therefore, to train a substantial number of men as motorbus operators. The same situation exists with respect to the present streetcar shop personnel. Time would be required to procure the necessary number of men and further time would be needed for operator training.

Present employees who could not qualify for these new job requirements would present a problem to the system, particularly if there was an immediate 100 percent conversion to motorbus. With such a program spread over a number of years, as we have recommended, there would be more opportunity to work out this problem.

There are two locations, at least, on the system where the direct substitution of motorbuses for streetcars present operating problems. The major one is the Cabin John route (No. 20) where there is no adequate immediately paralleling highway. Also, we are advised that certain limitations as to the weights of vehicles which can operate on Conduit Road would prevent the use of large-capacity buses. Another location is the underground rail terminal at the Bureau of Engraving where short-radius turns and ventilating problems would require some alterations to the present structure. We understand that the Du Pont Circle rail underpass could be used for motorbuses with little, if any, expenditures except for paving the approaches.

EFFECT OF CONVERSION ON GENERAL TRAFFIC CONDITIONS

Traffic congestion is caused primarily by too many vehicles in relation to the available street space, rather than by the type of vehicle. It is our opinion that many of the conclusions as to the causes of and possible remedies for traffic problems are based too frequently on sentiment rather than on facts.

Transit vehicles of any type do without question contribute somewhat to traffic delays, but this is also true with respect to all other types of vehicles using public streets. One major utilization of street space by the streetcars in Washington is the presence of some 487 fixed or movable passenger-loading platforms adjacent to the car tracks. However, with respect to only 53 of these loading platforms are nontransit vehicles prohibited from using the lefthand lane and of these 53 exceptions 24 of them are on Pennsylvania Avenue NW., an exceptionally wide street. In these particular cases, where nontransit vehicles are prohibited from using the lefthand lane, the presence of these loading platforms reduces the number of traffic lanes available for such vehicles. It is probably true that in a few of the some 434 locations where nontransit vehicles can use either the left- or right-hand lanes at loading platforms, the presence of such platforms may also reduce the total number of traffic lanes. The other side of this picture is that at these 434 locations the presence of nontransit vehicles on the left-hand side of passenger-loading platforms frequently causes substantial delays to streetcars.

The turning movements of vehicles and the presence of pedestrians are also contributing causes to traffic delays. There is no question but what streetcars are delayed more frequently than buses by left-turning vehicles. On the other hand the right-turning movements of general traffic universally cause greater delays to motorbuses because of pedestrian interference than they do to streetcars. All transit vehicles whether streetcars or motorbuses cause delays to other traffic which are unavoidable because of the necessary stops which transit vehicles must make for the pickup and discharge of passengers.

It is our opinion that in the overall picture the conversion of the present rail operations to motorbus will not result in any material improvement in the general traffic situation. It is, of course, obvious that the removal of two-way streetcar operation would permit reversible traffic lanes or 100 percent one-way vehicle operation in the relatively few locations on street car routes where such traffic devices might be advantageous.

It has been our belief for some time that the only permanent and effective method of

securing real traffic relief is to reduce the number of nonessential vehicles which are at present using available street space in downtown areas, either as vehicles in motion or as parked vehicles. It would definitely be to the economic advantage of the Washington metropolitan area if the movement of both people and goods could be expedited, particularly in the downtown area.

To accomplish this with existing street facilities requires the most efficient use of present pavement widths and this can best be accomplished by a reduction in some way of the present excessive use of such pavements by private automobiles, particularly the automobile commuters who drive to and from their places of work every day. This condition is more acute in Washington than in most other cities because of the unusually extensive facilities in or adjacent to the downtown area for free all-day automobile parking.

RECOMMENDED CONVERSION PROGRAM

As indicated above the expenditures required for track replacements in the next 11-year period—1955 through 1965—have been estimated at $7,573,000 if the entire present rail system is to be continued as an operating entity. These expenditures have been estimated by years as follows:

Estimated expenditures for track replacements

1955	$392,000
1956	662,000
1957	543,000
1958	572,000
1959	244,000
1960	1,877,000
1961	705,000
1962	386,000
1963	187,000
1964	485,000
1965	1,520,000
Total (11 years)	7,573,000

In working out our conversion program we have attempted to arrive at the best compromise combination of all factors to arrive at the following objective:

To secure the longest possible future service of life of the present track with the minimum aggregate expenditures for track replacements and have at all times a useful rail operation utilizing existing terminal and looping facilities, maintaining access to adequate car house and shop facilities and fitting in, as far as possible, with proposed highway improvements. Our program requires the construction of no new track or track connections.

In our timing of the conversions to bus of the various routes or portions of routes we have been guided primarily by the track replacement costs which have been estimated as necessary at various locations and during various future years. These estimates have been based on a program which would keep the rail system in approximately its present average physical condition and not on the premise of maintaining a safe and serviceable system for only a limited future period of operation as is contemplated in our conversion program. We have, therefore, based our program on the assumption that with an early retirement date in sight, certain sections of present track can be kept in service somewhat longer without making the major expenditures at the times estimated.

Our suggested conversion program is divided into five sections or phases as follows:

Phase 1: To be completed during 1956–57. Streetcar operation to be discontinued over the following locations: Mount Pleasant, routes No. 40 and No. 42 west of 14th and H Streets NW.; 13th and D NE., route No. 42 east of Union Station Plaza; 11th and Monroe, route No. 60 on 11th Street north of E, on E Street and on 9th Street from Pennsylvania Avenue to G Street NW.; double track in south portion of Union Station Plaza; routes No. 90 and No. 92 west of 14th and U Streets NW.

Route No. 40, Lincoln Park, cars would then have to be terminated at some point downtown such as Potomac Park loop or on F Street, 14th Street and G Street loop. Route No. 90 and No. 92 cars would be divided between northerly terminals at the T Street, 7th Street and U Street loop or 14th and Decatur. The removal of the south half of the loop at Union Station Plaza will require a relocating of the eastern terminal of the Cabin John No. 20 carline and should permit the proposed rearrangement of the roadways in the plaza without additional track changes. These changes should release about 77 streetcars and require the purchase of 90 buses.

If it proves to be economically feasible to convert eastern car house to a bus garage, that work could be commenced in connection with phase 1, and a portion of the new buses housed at that location. The remainder of the additional buses should be housed in the north central area of the city if facilities could be made available at either northern or central garages.

Phase 2: To be completed during 1957–58. Streetcar operation to be discontinued over the Maryland line (route No. 82) between 5th and G Streets NW. and Branchville.

This change should release about 25 streetcars and will require the purchase of about 30 buses. It will be necessary to retain the track on Fourth Street NE. from the northeastern car house to Michigan as the Brookland, route No. 80, cars are housed at that car house and should continue to be housed there together with the 30 new buses.

Phase 3: To be completed during 1958–59. Streetcar operation to be discontinued over the following locations: Routes No. 20, No. 30 and No. 80 west of Pennsylvania Avenue and 19th NW.; route No. 92 between Florida and New Jersey and Eighth and Pennsylvania SE.

Route No. 50, on 14th Street south of Pennsylvania (Bureau of Engraving).

These changes are necessitated primarily because of major track reconstruction requirements on Pennsylvania Avenue west of 19th and on M Street. They will eliminate the Cabin John route (No. 20) for which motor bus replacement represents a serious problem because of the lack of an immediately paralleling highway and certain vehicle weight limitation on Conduit Road. The elimination of the Rosslyn end of route No. 80 would remove the question of track reconstruction in connection with the widening of the Key Bridge. Western car house would be isolated from the remaining rail system and should be converted to become an enlargement of western garage for the housing of some of the new buses required. These changes should release about 105 streetcars and would require the purchase of 115 buses.

This will isolate the M Street shops. Temporary arrangements would have to be made to carry on all streetcar maintenance for the balance of the period of rail operation at the 4th Street shops and southern car house.

Phase 4: To be completed during 1960–61. Streetcar operation to be discontinued over the following locations: 14th Street, routes No. 50 and No. 54 north of 14th and G Streets NW.; 7th and Georgia Avenue, routes No. 70, No. 72 and No. 74 north of 7th and Pennsylvania NW.; U Street from 7th to 14th NW.; East Capitol (Lincoln Park) route No. 40, east of First Street; Independence Avenue from First SW. to First SE.; First Street west from Independence to C Street NW.; C Street, D Street, Indiana Avenue and Fifth Street from First and C Streets, NE. to Fifth and G Streets NW.; Pennsylvania Avenue from 7th Street NW. to Peace Monument, including loop; Pennsylvania Avenue from 8th Street SE. to Barney Circle.

These major changes would leave a rail system serving the Potomac Park and Southwest Mall loops, the Navy Yard, south Seventh Street and Brookland with a crosstown line from the Navy Yard to Seventh Street and Florida Avenue. Service to Barney Circle has been dropped because of the lack of track connections to reach Barney Circle from Navy Yard car house.

These changes would release about 108 streetcars and require the purchase of 115 buses. Both eastern and northern car houses become isolated from the rail system, leaving Navy Yard and southern car houses.

Phase 5: To be completed during 1961–62.

This final phase discontinues all remaining streetcar service and releases the streetcars required to provide the 64 necessary to operate the rail system existing after phase 4. This final phase will require the purchase of 80 buses.

This conversion program is outlined for completion about 1962. Existing track conditions would probably permit certain of the route conversions to be made at somewhat later dates than those indicated. Our program would permit the realization of from 1 to 7 or 8 years of additional service life for the present streetcar system, and we estimate that the required expenditures for track renewals and repavements in the meantime would aggregate approximately $1 million. Even then the streetcars, practically all of the overhead trolley track and substantial portions of the conduit track would go out of service many years before the end of their potential future service life.

This program would also provide time for working out the physical and financial problems incident to a conversion of this magnitude and would be generally in line with the procedures which have been followed in most other cities. The purchase of new buses would be distributed over the conversion period as follows:

Estimated bus purchases for conversion

Years	Number of buses	Estimated cost
1956–57	90	$1,080,000
1957–58	30	660,000
1958–59	115	2,530,000
1960–61	115	2,530,000
1961–62	80	1,700,000
Total	430	9,460,000

IMPACT ON THE FUTURE OF TRANSIT OF PROPOSED HIGHWAY IMPROVEMENTS

Currently there are under consideration several specific plans for highway improvements in the District of Columbia. The major projects, on the layout of which De-Leuw-Cather & Co. has been working, is a limited access belt highway to provide for by-passing traffic around the central business area, with new bridges over the Potomac River, access to the Anacostia River bridges and a north and south center connection of similar characteristics running roughly from the Belt Highway at F and Second Streets SW. along Second and First Streets and New Jersey Avenue to the Belt Highway at about Q or R Streets NW.

Among the proposed local projects are a rearrangement of the roadways in and around Union Station Plaza, the widening of Independence Avenue east of about Second Street SW., the widening of the roadway on the Key Bridge and additional one-way streets or the use of reversible traffic lanes.

In our conversion program we have provided for the elimination at an early date of the double tracks now located in the southern portion of the Union Station Plaza and

the double track branchoff leading from the Plaza into Massachusetts Avenue SE. This should permit the retention of the present northerly tracks in the Union Station Plaza connecting Massachusetts Avenue NW., with First Street NE., and still allow for satisfactory roadway rearrangements.

The proposed widening of Independence Avenue is at a location where the tracks in that street are an important link between the rail system in the southeastern section of Washington and the downtown area. Our proposed conversion program contemplates the retention of these tracks in their present location for a short future period so as to avoid the necessity of circuitous routings.

The proposed Key Bridge widening is specifically referred to in the outline of our conversion program.

The comprehensive Belt Highway program will present some problems to the transit system for both its present bus as well as its rail operations. Insofar as phase I of the Belt Highway is concerned, the principal problems relate to the present Southwest Mall track loop situated immediately south of Independence Avenue, on Third, Second, and D Streets SW. The proposed route of the center connection of the Belt Highway will require the closing of Second Street SW., from Independence Avenue to south of E Street, and will mean that rail service over the Southwest Mall loop will have to be discontinued whenever highway construction at that location is commenced. Also, in connection with phase I of the Belt Highway, separated grades will have to be provided on Seventh Street SW. at approximately F Street and on Independence Avenue at Canal Street.

Separated grades with provision for streetcar tracks will also have to be provided at 22 other locations provided construction of future stages of the proposed Belt Highway commence before streetcar operations are eliminated on these particular streets.

These locations and the dates at which our program contemplates the discontinuance of streetcar service are as follows:

Street on which there are now tracks	Section of Belt Highway crossed	Date of conversion to bus shown in program
Pennsylvania Ave. NW. at Washington Circle	West	1958–59
Connecticut Ave. NW	do	1956–57
14th St. NW	North	1960–61
11th St. NW	do	1956–57
7th St. NW	Northeast	1960–61
New Jersey Ave. NW	Northeast and central	1961–62
North Capitol St	Northeast	1961–62
New York Ave. NE	do	1957–58
Florida Ave. NE	do	1958–59
8th St. NE	do	1958–59
D St. NE	East	1956–57
C St. NE	do	1956–57
East Capitol St	do	1960–61
Pennsylvania Ave. SE	do	1960–61
8th St. SE	Southeast	1961–62
7th St. SW	Southwest	1961–62
New York Ave. NW	Central	1957–58
G St. NW	do	1961–62
D St. NW	do	1960–61
Indiana Ave. NW	do	1960–61
Pennsylvania Ave. NW. near Peace Monument	do	1960–61
Independence Ave. SW	do	1960–61
2d St. SW	do	1961–62

On New Jersey Avenue between N and O Streets NW. and on Florida Avenue from Fourth to Eighth Streets NE., the indicated street changes are so substantial that street railway track relocation would be required. We are advised, however, that construction on those particular portions of the proposed Belt Highway is a considerable distance in the future.

It also should be noted that the proposed extension of the Belt Highway eastward from 11th Street NE. to the Anacostia River would deprive the transit system of its present Trinidad motorbus garage located on Benning Road immediately east of 15th Street NE. Also the connection of the Belt Highway with the John Philip Sousa Bridge would necessitate the elimination or relocation of the present streetcar and bus terminal at Barney Circle.

These highway improvements in the District of Columbia which are currently being planned and many others which have been completed in the past few years are primarily for the benefit of the private automobile driver. None of them has or will be of much, if any, benefit to local mass transportation. Many actually make local transit operation more difficult, some have actually cost the transit system substantial amounts of money, and all of them contribute materially to the increased use of private automobiles and, therefore, to the continuing decline in transit riders. Many millions of dollars are spent in attempts to enable vehicles to move more freely when the real problem is the movement of people and essential goods. A large part of these expenditures could be saved if existing street space were used more efficiently, as would be the situation if more of the public used transit vehicles, particularly in the congested areas. Unfortunately, the trend is the other way, primarily because of this subsidized competition with which transit has to compete without the benefits of any similar assistance.

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Mr. MORSE. Mr. President, our system is now about 61 percent converted. I would like to find out for District citizens the service life potential of the remainder of the street railway system. The best way to do this is through public hearings where the facts can be developed.

It may be that such a delay might cause some hardship upon the D.C. Transit Co. in view of the mandate now contained in the franchise, as passed by the Congress in 1956, requiring it to convert its transportation system to an all-bus system within 7 years. In the event that any hardship would be imposed upon the D.C. Transit Co. by such a delay as I suggest, I think it would be only fair that an equitable adjustment be made by the Congress in whatever manner that would be necessary in order to be fair to the company.

However, it should be pointed out that the franchise does say, "* * * except that upon good and sufficient cause shown the Commission may in its discretion extend beyond 7 years the period for carrying out such conversion."

What I am suggesting tonight, Mr. President, is that this section of the franchise be used by the Public Utilities Commission to delay for a while further conversion of the remainder of the streetcar system into a bus system, until there can be conducted the hearings necessary to get all the facts on a public record as to the desirability of a complete conversion from a street railway system to a bus system.

In my judgment, the legislative situation in this session of Congress practically precludes any possibility of getting any legislation on this subject passed before Congress adjourns in July. Therefore, I wish to avoid raising any false hopes on the part of those people who are seeking some legislative action in this session of Congress for a change in the franchise before we adjourn.

I want the RECORD to be perfectly clear. The groups which are interested in having the remainder of the streetcar system continued have come to me as chairman of the Subcommittee of the Senate District of Columbia Committee which has jurisdiction over the subject matter, and asked for the introduction of a bill which would have the effect of seeking to have the franchise amended so that there could be a stoppage to the conversion from street railways to buses.

I have never knowingly or intentionally raised false hopes on the part of citizens who have sought legislative action, when I was satisfied that the request they were making was simply impossible of accomplishment in that particular session of Congress. I may be proved wrong in my judgment as to the timing, but I do not think it is within the realm of probability, in the few weeks remaining in this session of Congress, that this very complicated problem of amending a franchise for the D.C. Transit Co., with all the intricate legal questions that any proposed amendment to the charter would be bound to raise, could be acted upon in this session of Congress. If I had wanted to play politics, I would have gone through the gesture of introducing such a bill and saying, "Well, I did the best I could, but Congress did not get to it."

What I have done has been to say to those people, "You are probably not going to accomplish anything that way in this session of the Congress. Let us take a look at the procedures which are available to you. In my judgment you cannot do it by way of legislation."

There is a bill on the House side on this subject matter. If the House should take action and get the bill over to the Senate, we might be able to take a look at it between now and adjournment. In my judgment, however, no action will occur on the House side. However, there is a procedure available in the existing franchise, through the Public Utilities Commission itself.

The suggestion I am making on the floor of the Senate tonight is that the Public Utilities Commission take a second look at that section of the franchise

which, in effect, authorizes the Public Utilities Commission upon good and sufficient cause shown to extend the period of conversion from streetcars to buses. The Commission is vested with discretion by that section, when such an issue has been raised, and there are requests for a public hearing to take another look at the public interest in connection with the matter of conversion from street railways to buses to hold such a hearing.

Also I have said to those who have come to me and said that they do not think there should be any further conversion from streetcars to buses, "I do not know what the facts are from the standpoint of the best public interest, and I do not intend to prejudge the question. I shall wait until the facts are in." The only way to get the facts, it seems to me, is through such a procedure of hearings as I am suggesting here tonight.

I note that the Public Utilities Commission in commenting upon the adequacy of the service rendered by D.C. Transit on page 33 of the opinion says:

In this connection, we feel it is appropriate to comment upon the proposal of the company to convert its remaining rail operations on January 2, 1962. In our opinion the proposal as submitted is too general and unsupported in detail to warrant any commitment from us as to its desirability or feasibility. We shall require of the company a detailed outline of its plans, and if the facts demonstrate a necessity therefor we shall set the matter down for hearing in order that we may have before us as complete a picture as possible to enable us to carry out our function, not only of supervising the conversion from rail to bus as required by Congress, but of performing our duty, of seeing that the company gives adequate service to the public.

Mr. President, I ask unanimous consent that the entire page 33 of the opinion be printed in the RECORD at this point in my remarks.

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

ADEQUACY OF SERVICE

In making the findings and conclusions herein set forth we do not disregard our continuing responsibility to see to it that an "adequate transportation system" is maintained. We conceive the definition of adequacy as having to do, among other things, with service. Service has many facets, and a broad comprehensive look must be taken of the picture, not only as it is related to the fare structures, but also as to the quality of service being afforded the community, now and in the foreseeable future. The entire matter must be approached with a realization that the company has been called upon to convert from streetcars to buses within a 7-year period. Section 7 of the Franchise Act reads in part as follows:

"SEC. 7. The corporation shall be obligated to initiate and carry out a plan of gradual conversion of its street railway operations to bus operations within seven years from the date of the enactment of this Act upon terms and conditions prescribed by the Commission, with such regard as is reasonably possible when appropriate to the highway development plans of the District of Columbia and the economies implicit in coordinating the corporation's track removal program with such plans; except that upon good and sufficient cause shown the Commission may in its discretion extend beyond seven years, the period for carrying out such conversion."

Discounting what we believe to be the improper interpretations that have been placed upon this language to the effect that this Commission can presently postpone or halt the requirement for conversion, we face the issue that adequate service must be maintained while meeting the requirement of conversion. With this in mind, we feel called upon to see that an orderly conversion is effected, and that the substituted bus operation is adequate both as to service and equipment, to meet the public demand. This is our continuing obligation and we shall investigate and act promptly upon any failure of the company in any of these areas. We shall keep ourselves constantly informed of the quantity and quality of the service which the company is affording to the public.

In this connection, we feel it is appropriate to comment upon the proposal of the company to convert its remaining rail operations on January 2, 1962. In our opinion the proposal as submitted is too general and unsupported in detail to warrant any commitment from us as to its desirability or feasibility. We shall require of the company a detailed outline of its plans, and if the facts demonstrate a necessity therefor we shall set the matter down for hearing in order that we may have before us as complete a picture as possible to enable us to carry out our function, not only of supervising the conversion from rail to bus as required by Congress, but of performing our duty, of seeing that the company gives adequate service to the public.

Mr. MORSE. Mr. President, I am confident that the Public Utilities Commission will perform its duty of seeing that the company gives adequate service to the public, and will keep itself constantly informed of the quantity and quality of service which the company is affording the public. But I would suggest, in view of the questions that have been raised as to the desirability now, at this time, of continuing the conversion program that the Commission would be well within its authority in scheduling a hearing upon the merits of the conversion program per se, so that it could come before the legislative committees of the 87th Congress to testify upon the current situation and present its factual recommendations to the legislative committees for changes in the charter language that it would find to be justified with respect to this program.

Such a hearing by the Public Utilities Commission would have a secondary benefit besides that of marshalling in orderly fashion the basic facts of the situation; it would permit sufficient care to be exercised in the drafting of legislation, if such is needed, so that the Congress could act in this intricate field of utility control in an informed manner free from the pressures of time and circumstance which surrounded the enactment of Public Law 757.

To encourage the Public Utilities Commission to give careful attention to the suggestion I have outlined, I wish to give formal notice by this comment upon the floor of the Senate today that I propose to offer suitable legislation in the 87th Congress, upon which hearings will be held, which will have for its goal the full exploration of the conversion program prior to the end of the 7-year period. Such legislation, when introduced, would, I believe, be a sufficient basis for the Commission to exercise its discretion in extending the conversion period for at least until the legislation can be disposed of by the Congress.

I believe that in giving that notice of intention to introduce a bill at the beginning of the 87th Congress, I am being fair to all concerned. I will not be a party to what I consider to be an empty gesture. Introducing such a bill in the closing weeks of this session of the Congress seems to me to be an empty gesture. I say to those who have been urging me to do it that they need to take a look at the schedule of the Senate. We have a great legislative backlog that we must still dispose of. If I were to introduce a bill tonight I could give no assurance of early hearings on the bill before the Senate Committee on the District of Columbia this session. I think that would be a form of political deception on my part, to give any such false hope. But I have outlined in this speech what I think is a procedure which should be made available to the interested parties. I hope the Public Utilities Commission will take note of the remarks I am making in the Senate tonight. I hope it will proceed to give consideration to this question and to the representations of the parties, and make clear that it will use that section of the franchise which permits it to extend the period of 7 years for conversion to a reasonable degree, until the bill which I shall introduce in the first part of the 87th Congress can be considered on the basis of the current factual situation.

Mr. President, I turn now to another subject.

The PRESIDING OFFICER. The Senator from Oregon.

THE GOVERNMENT'S GROWING RECOGNITION OF SOCIAL SCIENCE

Mr. MORSE. Mr. President, I ask unanimous consent to have printed in the RECORD at this point as a part of my remarks an article entitled "The Government's Growing Recognition of Social Science," written by Dr. Harry Alpert and published in the Annals of the American Academy of Political and Social Science, in the issue of January 1960.

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

THE GOVERNMENT'S GROWING RECOGNITION OF SOCIAL SCIENCE

(By Harry Alpert)

Abstract: Important new developments have strengthened the standing of the social sciences in the Federal Government. Historical analysis emphasizes the recency of the Government's recognition of the national contributions of social science research. Significant progress has been made despite critical fluctuations. Five factors contributing to the more favored governmental position of social science research are (1) changing congressional attitudes; (2) acceptance of the social sciences at the White House level; (3) inclusion of the social sciences as part of broad definitions of scientific disciplines; (4) the general postsputnik interest in American education; and (5) the concern with redressing imbalances in American higher education. Research support for the social sciences is growing but a critical shortage remains in funds for fellowships and

assistantships. The social sciences approach the next decade in a climate of acceptance and encouragement.

"They never had it so good." This vernacular phrase may startle grammarians, but it describes accurately the present position of the social sciences with respect to support and interest by the Federal Government. As the result of important new developments which have served to consolidate the standing of the social sciences in the Federal Government, there is every likelihood that the 10 years from 1950 to 1960 will be viewed as the "March" decade of the social sciences. March, according to folk weather lore, comes in like a lion and goes out like a lamb. Similarly, the 1950's may be said to have come in with a roaring antipathy to the social sciences and to be departing with attitudes of positive interest and quiet acceptance.

That it has taken so long for the Federal Government to develop a modus vivendi with the social sciences is quite ironical, for its involvement in social research was written into the U.S. Constitution. By providing for a decennial census and making this count of the population the basis for representation in Congress, our Founding Fathers made a social science activity the ultimate basis of political power.[1] In fact, the gathering, analysis, and dissemination of social and economic statistics has continued to be one of the three major ways in which the Federal Government relates itself to the social sciences. The other two are: exploitation and utilization of the findings and results of social research; and direct support of social sciences through the intramural conduct of social science research in the Federal Government's own research laboratories and units or through contracts and grants for extramural social science studies at colleges and universities, other nonprofit organizations, and business and commercial establishments.

PRE-WORLD WAR II STATUS

Up to World War II, the role of the Federal Government in the social sciences consisted largely of the first two of these functions, namely, producing mass statistical series and exploiting social science findings produced outside of the Government. During the 19th century, the social sciences played a modest but effective role in the development of Government powers and programs. Don K. Price has called attention to the contribution of economic and statistical series in the growing development of the regulation of business, as well as to the impact of John R. Commons' institutional economics on labor legislation and of Charles Francis Adams' studies on the regulation of railroads.[2]

Even as late as 1940, the Government's direct activities in the social sciences were still predominantly confined to the collection and analysis of statistical information.[3] However, the roots of later developments in the Government's social science programs were discernible in the 1920's. The appointment by President Hoover of a research committee on recent social trends provided significant White House endorsement of a major social science enterprise. Further impetus for governmental support of the social sciences came in the thirties from the practical programs of the New Deal. An outstanding example was the Department of Agriculture's Division of Program Surveys which assumed the leadership in introducing the sample interview survey as a basic social science tool and as an instrument of governmental policy.

IMPACT OF WORLD WAR II

But the defense mobilization period and World War II itself were undoubtedly the major catalytic events leading to the expansion of the Federal Government's programs of social science research. The events of the war on both the military and civilian fronts and the problems of postwar adjustment as they affected the Nation and the individual provided the social sciences with dramatic opportunities to demonstrate their practical value and essential role in modern society. A brief review of illustrative uses of social science during World War II lists eight examples of problem areas in which important social science research accomplishments were achieved: soldier orientation and morale; analysis of command problems, particularly among Negro troops; more efficient use of psychiatry; venereal disease control; analysis of the American soldier's problems of adjustment, combat performance, and response to mass communications; evaluation of Japanese morale; estimation of war production requirements; and regulation of prices and rationing.[4] To this list may be added the media analysis activities of the Office of War Information and the Foreign Broadcast Intelligence Service; the propaganda studies of the Library of Congress, Department of Justice, and various intelligence agencies; the surveys of war bond purchases and other evaluations of the effectiveness of drives; the testing of the public comprehension of governmental information materials; and research on national character and other problems related to a better understanding of the behavioral characteristics of foreign peoples.

POSTWAR DIFFICULTIES

The immediate postwar period of demobilization witnessed the dismantling and disappearance of many of these wartime programs. Dissatisfaction with the limited accomplishments of some of these social science activities was expressed, largely as the result of the disillusionment which set in when excessive promises of achievement were unfulfilled. Social scientists became their own worst enemies by promising too much, too fast, and accepting funds in excess of what could be effectively expended. Moreover, the social sciences have suffered from their minority group status among the scientific disciplines. Like minority groups on the labor market, they are subject to the rule of "last hired, first fired." Thus, many social science programs were speedily demobilized because of their relatively low priority and because of a failure to appreciate their long-range implications and future contributions.

Nevertheless, significant efforts were made to continue programs which had demonstrated their effectiveness during the war. The Office of Naval Research, created shortly after World War II, supported research on manpower problems, personnel and training, group morale, organizational structure, and related social psychological areas. The Army continued, in abbreviated form, its studies of opinions and attitudes of American soldiers. The new Department of the Air Force, proud of the accomplishments of the aviation psychology program, organized units to undertake and support research in problems of selection and training, manpower, leadership, human relations and morale, and psychological warfare. When the Research and Development Board was established in the Department of Defense it included a Committee on Human Resources.

However, the skepticism and disenchantment which many of these programs engendered did not provide a favorable environment for their persistent growth and development. There set in, consequently, a period of recurring ups and downs, of "acute, and sometimes critical fluctuations," as Leonard S. Cottrell, Jr., has described it.[5] A "starts and fits" pattern became evident: an activity got started and then was curtailed or discontinued when some Congressman or general threw a fit. The Division of Research of the Housing and Home Finance Agency, the excellent survey research unit of the Veterans' Administration, the Air Force's Human Resources Research Institute at Maxwell Field, and its personnel and training center at Lackland Air Force Base were but a few of the research units which experienced difficulty.

Despite the "on again, off again" character of some of these programs, the long-term trend was toward increasing appreciation of the social sciences as valuable national assets. As the postwar pattern of extramural support developed, the social sciences, too, received encouragement, although not at the same rate and magnitude as the physical and life sciences.

THE "MARCH" DECADE

The "March" decade, 1950–60, will perhaps be viewed historically as the turning point in Federal Government recognition of the social sciences. The full measure of the change from the "lion" to the "lamb" phase of this decade may be observed in comparing the National Science Foundation Act of 1950 with the National Defense Education Act of 1958. In the former legislation, the social sciences are included only on a permissive basis and are referred to only as "other sciences." In the 1958 act, the section dealing with graduate fellowships mentions no limitations whatsoever with respect to disciplines. Moreover, a separate title provides for research and experimentation in more effective utilization of television, radio, motion pictures, and related media for educational purposes. This act also recognizes the importance of improving statistical series in the field of education.

Note must be taken, also, of other evidences of changing attitudes toward the social sciences, such as the establishment, in December 1958, of an Office of Social Sciences within the National Science Foundation; the appointment, in the spring of 1959, of a sociologist, President Logan Wilson of the University of Texas,[6] as a member of the National Science Board; and the expansion of the social science research activities of the Department of Health, Education, and Welfare.

In the vernacular of the boxing ring, it may be said that the social sciences were, for several years, definitely "rocky and punch drunk," but were still on their feet when the fight was over. They have survived Cox Committee and Reese Committee investigations. They have endured pariah status and innumerable reorganizations. They have weathered appropriation storms which threatened to cut off funds for studies of child-rearing practices, mother-love among lambs, population dynamics, message diffusion, and other projects which became the pet peeves of individual legislators.

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[1] See Don K. Price, "Government and Science" (New York): New York University Press, 1954, p. 5.

[2] Ibid, pp. 11–12.

[3] The several paragraphs which follow are adapted from the author's chapter on "The Growth of Social Research in the United States" in Daniel Lerner, editor, The Human Meaning of the Social Sciences (New York: Meridian Books, 1959), pp. 73–86.

[4] Russell Sage Foundation, "Effective Use of Social Science Research in the Federal Services" (New York, Russell Sage Foundation, 1950).

[5] Leonard S. Cottrell, Jr., in Foreword to Morris Janowitz "Sociology and the Military Establishment" (New York: Russell Sage Foundation, 1959), p. 5.

[6] Dr. Wilson was subsequently required by Texas law to give up his membership on the National Science Board.

MAJOR DYNAMIC FACTORS

In attempting to assess the major factors that account for the more favorable position in which the social sciences find themselves at the end of this decade, I am able to identify five important considerations: (1) changing congressional attitudes; (2) acceptance of the social sciences at the White House level; (3) inclusion of the social sciences as part of broad umbrella definitions of scientific disciplines; (4) the general postsputnik interest in American education; and (5) the concern with redressing the imbalances in education which stemmed from the earlier almost exclusive emphasis on natural science and mathematics. Brief comments on each of these five factors follow.

CHANGING CONGRESSIONAL ATTITUDES

In his report on the crucial Senate debate in 1946 which preceded the vote to exclude from the then pending bill to establish a National Science Foundation the specific provision which created a Division of Social Sciences, George A. Lundberg concluded that the Senate thought of the social sciences as at best "a propagandist, reformist, evangelical sort of cult."[7] The unfortunate phonetic confusion of social science with socialism reinforced such viewpoints. Just a few years later, however, more positive attitudes were being expressed. In 1953, the Cox committee, in its "Final Report," noted the special importance of the social sciences in the contemporary world. It stated:

"It is entirely possible that in a time when man's mastery over the physical sciences threatens him with possible extermination the eventual reward from the pursuit of the social sciences may prove even more important than the accomplishments in the physical sciences."[8]

Other important turning points in congressional expressions toward the social sciences were the vigorous statements by Senator ESTES KEFAUVER'S Subcommittee on Juvenile Delinquency in 1955, 1956, and 1957; the 1955 recommendations of Representative RICHARD BOLLING'S Subcommittee on Economic Statistics of the Joint Committee on the Economic Report; Senator HUBERT HUMPHREY'S report to the Senate in 1957 of his experiences in the Middle East; and speeches by Senator WAYNE MORSE, Representative CHARLES O. PORTER and others.[9] This year neither House of Congress raised any objections to the National Science Foundation's request for $2 million for support of basic research in the social sciences in fiscal year 1960, even though this represented a considerable increase over the $850,000 appropriated for this purpose for fiscal year 1959. (The actual budgetary allowance for social science research in the National Science Foundation for fiscal year 1960 is $1,600,000.)

This is an encouraging picture, indeed. But congressional confusion regarding social science has by no means been completely eliminated. Negative attitudes still persist and need to be reckoned with.[10]

WHITE HOUSE INTEREST

The White House, too, has shown increasing interest in the support of the social sciences. In his state of the Union message delivered on January 9, 1959, President Eisenhower expressed his desire to undertake a systematic study of American values, goals, and social trends, comparable to the earlier Hoover committee study.

The objective, President Eisenhower said, would be "the establishment of national goals that would not only spur us on to our finest efforts but would meet the stern test of practicality." He hoped that this new study would be concerned, among other things, "with the acceleration of our economy's growth and the living standards of our people, their health and education, their better assurance of life and liberty and their greater opportunities." He noted that the report of Hoover's Recent Social Trends Committee "has stood the test of time and has had a beneficial influence on national development." Here, indeed, is a significant compliment to social science.

And in its report on "Strengthening American Science," issued December 27, 1958, the President's Science Advisory Committee included social psychology among the scientific disciplines for which a strong case could be made for intensifying the Nation's scientific effort. The Committee stated, "And advances in social psychology might help to reduce tension and conflict at every level of human intercourse—in our communities, in business and industry, in Government, and even among nations."[11] Furthermore, as previously noted, President Eisenhower has appointed a social scientist to the National Science Board. This policy-determining body for government science on January 23, 1959 adopted the following statement:

The National Science Board recognized the importance, as well as the complexity and difficulty, of research in the social sciences. It is clear that the intellectual, economic, and social strength of our Nation requires a vigorous approach to social problems, with scientific techniques of study making their maximum contribution.[12]

PROTECTIVE UMBRELLAS

The social sciences have prospered best in the Federal Government where they have been included under broad umbrella classifications of the scientific disciplines such as agricultural sciences, military sciences, medical sciences, and health sciences. Under such umbrellas and in close company with scientific areas which enjoy the prestige and status of biological or physical sciences, the social sciences have enjoyed a protection and nourishment which they normally do not have when they are identified as such and stand exposed, naked and alone.

Agricultural research has been heavily supported by the Federal Government from its very inception. Quite early the concept of agricultural sciences was broadened to include not only biological research but agricultural economics and rural sociology as well. In fact, for many years the Department of Agriculture's Bureau of Agricultural Economics was internationally famous for its leadership in significant areas of social and economic research. Although from time to time specific social science projects of the Department of Agriculture have suffered congressional attack, there has been little question of the legitimacy of the inclusion of social research in the scientific program of the Department. In fact, one appropriation committee, with remarkable indifference to the distinction between biological and social science research, once included, in a list of fields for which research funds were not to be expended, the orchids of Guatemala, the flora of Dominica, child-rearing practices, research methodology, and population dynamics.

The medical sciences and health sciences rubrics have also provided generous hospitality to the social sciences. Social science research projects are given careful and sympathetic consideration by at least five study sections of the National Institutes of Health: Behavioral sciences, hospital facilities research, mental health, nursing research, and public health research. Social scientists serve as members of these study sections as well as on several other committees of the National Institutes of Health. The National Institute of Mental Health's Laboratory of Socio-Environmental Studies is outstanding in the quality of its research program.

Research undertaken by the Military Establishment in relation to the defense needs of the Nation develops strong immunities to congressional or other attacks if military authorities certify its importance to the mission of the Department of Defense. Despite the ups and downs previously referred to, the Army, Navy, and Air Force have arrived at a realization of the importance of basic research in the social sciences. The Office of Naval Research includes a Psychological Sciences Division. The Air Force has established a Behavioral Sciences Program in its Office of Scientific Research. And here is the testimony of an Army general presented recently before an appropriations committee:

We can never afford to neglect basic research and the Army wants to do more of it whenever we find applicable projects to further this increase of scientific knowledge. Such research is not confined to the physical sciences. Investigation of the social sciences to help us to utilize more effectively our manpower and insure man-machine compatibility with complex engines of war being developed is vital. Should we neglect these important considerations we only aggravate the trend in which the physical sciences are outstripping the social sciences and may, in time, reach a point where the machine may destroy its maker.[13]

These are the words of Lt. Gen. Arthur G. Trudeau, Chief of Research and Development, Department of the Army.

Another important umbrella for the social sciences is Operations Research. The various operations research units supported by the Federal Government have invariably included a social science component.

IMPACT OF SPUTNIKS

The social sciences have not been indifferent to the whir of the Russian sputniks and have directly felt the impact of these successes in space technology. It was recognized that Soviet Russia's accomplishment was not only the result of advances in science and engineering but also the consequence of a social system that was capable of making and carrying out significant decisions. Interest developed in studies of the social, economic, and political implications of the space age. It became imperative that we keep ahead of the Russians in the social science fields. For this reason, Vice President RICHARD M. NIXON encouraged the formation of a

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[7] "The Senate Ponders Social Science," The Scientific Monthly, Vol. 64, No. 5 (May 1947), p. 399.

[8] Final report of the Select Committee to Investigate Foundations and Other Oganizations, 82d Cong., 2d sess., H.R. No. 2514, Union Calendar No. 801 (Washington: Government Printing Office, January 1, 1953), pp. 9–10.

[9] For details and references, see Harry Alpert, "Congressmen, Social Scientists, and Attitudes Toward Federal Support of Social Science Research," American Sociological Review, vol. 23, No. 6 (December 1958), pp. 682–686.

[10] See, for example, Independent Offices Appropriations for 1960. Hearings before the Subcommittee of the Committee on Appropriations, House of Representatives, 86th Congress, 1st session (Washington: Government Printing Office, 1959), p. 527. For a discussion of persisting negative attitudes, see Harry Alpert, op. cit.

[11] *Strengthening American Science:* A Report of the President's Science Advisory Committee (Washington: Government Printing Office, 1958), p. 4.

[12] Reproduced in CONGRESSIONAL RECORD by Representative CHARLES O. PORTER, Mar. 10, 1959.

[13] "Department of Defense Appropriations for 1960," hearings before the Subcommittee on Appropriations, House of Representatives, 86th Cong., 1st sess. (Washington: Government Printing Office), p. 339.

committee on National support for Behavioral Science which reported on social science needs to the President's Scientific Advisory Committee. Substantially increased appropriations were made available to the National Science Foundation, and in the National Defense Education Act of 1958, Congress officially declared as national policy the doctrine that the defense of this Nation depends upon the mastery of modern techniques developed from complex scientific principles, and, as well, upon "the discovery and development of new principles, new techniques, and new knowledge." [14]

REDRESSING IMBALANCES

For a time, it looked as if only the natural sciences and mathematics would be the beneficiaries of the increased responsibilities of the Federal Government toward research and education. Programs were quickly organized to improve the quality of science teaching, to train more scientists and engineers, and to intensify the pace of research in the physical, mathematical, and biological sciences. It became evident, however, that the neglect of other areas of scholarship and learning would spell national disaster. The Government's difficulties in international relations led to intensified interest in language study. Soon voices were heard calling attention to the need to redress the imbalances in American education which a predominant concern with the natural sciences and engineering was creating.[15] Cognizance of this requirement is found in the newly released report of the President's Science Advisory Committee on "Education for the Age of Science." This report stresses the fact that, "Today in America we need a very wide variety of human talents." [16] It goes on to urge that "a proper balance be maintained in our educational offerings." [17] To achieve such a balance we must encourage intellectual leadership in the humanities and social sciences as well as in the natural sciences and mathematics.

HEALTHY PROGNOSIS

The social sciences thus face the 1960's in an atmosphere of encouragement and with the active support of influential well-wishers. Research funds are becoming more plentiful. The Federal Government alone will soon be spending in the neighborhood of $60 million a year in support of the social sciences. This estimate does not include the $100 million or so that the Decennial Census of 1960 will cost.

MORE FELLOWSHIPS NEEDED

A major problem, however, remains. The most urgent need of the social sciences is expansion of the pool of available trained, specialized manpower. Recent studies have indicated that the length of time required to obtain the Ph. D. degree is strongly influenced by the availability of financial support to graduate students in the form of assistantships and fellowships. It is here that the social sciences, and humanities, too, are most seriously disadvantaged vis-a-vis the natural sciences. The major bottleneck in the advancement of the social sciences is not research funds, but fellowship and scholarship opportunities for basic and advanced training. If the social sciences are to fulfill the general public's expectations of them, they must double, at least, the number of trained practitioners. To make the training process more productive and more effective, however, additional fellowships and other types of financial support for training are an imperious and critical necessity. Title IV of the National Defense Education Act has been extremely helpful in this regard. Almost a fourth (23 percent) of the first 1,000 graduate fellowships were awarded in the social sciences. The various training programs of the National Institutes of Health also provide valuable opportunities for social science education. But more needs to be done. The National Science Foundation, for example, has the basic legislation to include the social sciences within its "education in the sciences" program. It also has reasonably adequate funds for training and education. It has broadened its conception of the social sciences in its research support program. Only administrative nearsightedness prevents it from giving the social sciences, broadly conceived, their deserved place within the various program activities of its Division of Scientific Personnel and Education.

COMPLACENCY TO BE AVOIDED

We can be proud of the achievements of the social sciences in government, but we cannot afford to be complacent. Certain past mistakes must be avoided; premature promises, excessive expectations, hasty growth, disastrous indifference to the political process, unwarranted impatience with the administrative processes of justification and review, and lack of concern with the public image of the social sciences. By careful planning and effective operations a solid basis can be established for future growth.

Advance in the social sciences will depend most immediately on what in fact social scientists do: how well they teach at the undergraduate level, how well they communicate with the general public, how effectively they respond to calls from industry and government for help in resolving practical problems, and how much they devote to fundamental research. It depends also on their willingness to cultivate patience and humility.[18] Charles Dollard has well defined the problem: "The long-term contract of the social scientist with society is not to perform miracles but to bring to the study of man and his problems the same objectivity and the same passion for truth which have in the past given us some understanding and control of the physical world." [19]

Mr. MORSE. Mr. President, this article bears upon an issue on which I have spoken many times during by 16 years in the Senate, an issue with regard to which I have been helpful in obtaining some recognition, both in the Foreign Relations Committee legislation and legislation before the Committee on Labor and Public Welfare at various times; namely, the issue of giving greater recognition to the social sciences, both in our foreign aid program and in our education program.

This very able and scholarly item was written for the Annals of the American Academy of Political and Social Science by a fine scholar, Dr. Harry Alpert, dean of the graduate school, and professor of sociology at the University of the State of Oregon. The article is entitled "The Government's growing Recognition of Social Science."

It is with some pride that I ask unanimous consent to have this article inserted in the RECORD, not only because of the great scholarship of Dean Alpert, but because I am indebted to Dean Alpert for the excellent assistance he has been to me in the past as these social science issues have been raised in connection with legislation in the Senate. He has been most helpful to me in making available to me the facts and data from his store of learning that I needed in order to buttress by arguments. In this article he further strengthens the position I have taken many times in the Senate in urging that the Senate give greater recognition in its legislation to the need for strengthening the social sciences in our country.

SITUS PICKETING

Mr. President, last Friday, April 1, the junior Senator from Arizona [Mr. GOLDWATER] made extensive comments about his views on the undesirability of enacting legislation which would permit situs picketing in the building and construction industries. He also made some observations concerning the accuracy and consistency of the views expressed by the Senator from Oregon on March 24. The Senator from Arizona would have us believe that the purpose of this legislation embodied in a bill I introduced on February 25, S. 3097, and S. 2643, introduced by the Senator from Massachusetts and others, is to permit a wholesale and widespread use of the secondary boycott in the construction industry, and, furthermore, to permit the building trades unions to enforce closed shop conditions.

I am especially gratified to note that on this very day April 8, 1960, the Committee on Education and Labor of the House has by an overwhelming vote reported a common situs picketing bill favorably.

The real issue which this legislation involves is simple economics. I have had occasion recently to spend some time in the State of Maryland. Figures have been brought to my attention relating to wage rates among building tradesmen in the city of Baltimore. Much of this material was presented to the House Committee on Education and Labor on February 26, 1960, and appears in the printed hearings—H.R. 9070, and others—on pages 266 and those following. In Baltimore an organization known as the Associated Builders and Contractors, Inc., has grown up over the past 10 years dedicated to the cause of breaking down union conditions in an ever widening area of operations. Today this organization, according to its own figures, lists 660 member firms—page 221. In 1953 the Associated Builders and Contractors endeavored to attack a law passed by the city of Baltimore establishing prevailing rates for construction jobs—in effect, a municipal Davis-Bacon Act. It was the position of A.B.C. that the wage rate set by the city of Baltimore was not, in reality, a prevailing rate, but was, on the other hand, a union negotiated rate. It sought by documents—its own documents, note—to prove that the prevailing rate paid by its members was substantially lower. Carpenters in 1953 by the union rate were paid $2.58—by the open shop rate, $2.05. Comparable fig-

[14] Public Law 85-864, sec. 101.

[15] See, for example, statements by Pendleton Herring and Harry Alpert in the February 1, 1958, issue of the Saturday Review (vol. 41, No. 5).

[16] "Education for the Age of Science." President's Science Advisory Committee (May 24, 1959), p. 3.

[17] Ibid., p. 6.

[18] See the Saturday Review, vol. 41, No. 5 (Feb. 1, 1958), p. 38 and the Saturday Review, vol. 42, No. 14 (Apr. 4, 1959), p. 64.

[19] "Strategy for Advancing the Social Sciences," in Social Science Research Center of the Graduate School, University of Minnesota, "The Social Sciences at Mid-Century" (Minneapolis: University of Minnesota Press, 1952), pp. 19-20.

ures for electricians were $2.87, compared to $1.70. Today comparable rates for electricians are $3.75, compared to the open shop rate of $2.25—a difference of $1.50 an hour.

Mr. President, it seems to me that we should think through the meaning of these wage differentials. A contractor, when he bids on a job, ascertains his costs long before the job is started. He makes this estimate in relation to the labor costs. He, therefore, makes a decision when he puts in his bid as to whether or not he will employ a union subcontractor who pays the union wage scale or whether he will utilize a nonunion subcontractor at the open shop rate. If he knows he can get the open shop contractor at the cheaper rates on the job without interference from the building trades organizations, it is not surprising that he will make that choice. Whether Congress, in accordance with the wishes of many Senators and Congressmen and the recommendations of the President of the United States, will permit situs picketing is therefore a simple issue as to whether or not the building trades will be able to protect their negotiated wage scales. In Baltimore, as well as many other areas throughout the country, the issue is not whether an employer will hire exclusively union men—and if he did so it would be against the law—but whether or not he can be persuaded to sign an agreement which will obligate him to pay the union negotiated scale.

The issue is whether building trades unions are to be allowed to use their legitimate right to picket a jobsite to persuade nonunion employers to agree to fill their hiring needs among building trades craftsmen paid at union scale rates.

The Senator from Arizona has made a fairly elaborate effort to suggest that I, along with others, rejected common situs picketing during the debate on the labor bill last April, because we rejected a substitution of S. 748 for the bill which we had reported out of committee. S. 748, it will be recalled, was the administration bill introduced by the Senator from Arizona; it contained extensive restrictions on secondary boycotts, as well as organizational picketing. This bill was so clearly antilabor that even the Landrum-Griffin bill passed by the House of Representatives did not go so far. It is true that S. 748 did contain in section 503 what appeared to be a relaxation of situs picketing. However, its restrictions on organizational picketing in section 504 went so far as to leave the building trades organizations in a worse position than they were under existing interpretations of the Taft-Hartley Act. In other words, we rejected the administration's bill, not because it permitted situs picketing, but because, among other things, it would have been more restrictive.

The Senator from Arizona has attempted to provide himself with some amusement at the expense of the Senator from Oregon by suggesting that consistency requires him to be against a situs picketing bill because it is legislation for a special interest. The Senator from Arizona illustrates his point by my opposition to hot-cargo exemptions applied to the coal industry. There are many industries as highly integrated as the coal industry—printing, for instance, certain kinds of metal processing such as electroplating—and many others which might well deserve to be treated in the same way. In my speech of last September 3 opposing passage of the bill, I said this:

> My objection to singling out industries in the conference bill was related primarily to the hot-cargo issue. Here is a new and far-reaching notion in the law which would ban a union and a company from stating conditions upon which the company would do business with other companies. The number of industries which will be affected by this proviso are incalculable, and it would have been a serious injustice to have taken care of the problems of one industry, which was relatively integrated, without taking care of other industries with similar problems of integration.

Unfortunately, the Senator from Arizona is discussing an extremely complex field of activity in which the subleties escape him. The reason, in justice, why the situs picketing bill should be passed is because the building trades organizations are, in a manner not shared by any other group, suffering under the disability of not being able to utilize the procedures of the National Labor Relations Board to put themselves in a position to bargain collectively with the employers in the industry. The National Labor Relations Board election conducted on a jobsite on which employees work for short periods of time for employers with whom such employees have only casual relationships means very little. These casual relationships do not fit into the legal concepts under which the employer is obligated to bargain with a labor organization for an appropriate bargaining unit. In no other industry in the country is the bulk of the working force in as casual a relationship with their employers as in the building industry.

I am indebted to the Senator from Vermont [Mr. PROUTY] for corroborating my views. On September 2, 1959, he said:

> I regret that more was not done to ameliorate the problem of employees in the construction industry. Because of the peculiar nature of this industry, rights enjoyed by other segments of organized labor have not been available to workers in the building trades and to me this represents a definite inequity. For this reason I proposed an amendment which has been recommended by President Eisenhower since 1954, has the full support of the Secretary of Labor, and was included in the administration's labor bill.

The Senator from Arizona derives some pleasure from his effort to prove that I was inaccurate in my belief that the Senate had made clear it was not opposed to situs picketing. Had the Senate affirmatively approved situs picketing, it would have done so by voting in favor of an amendment, and I would have said as much. But I chose my words more carefully because I knew whereof I spoke.

I should like to go back to Friday, August 28, 1959. On that day two resolutions—Senate Resolution 180 and Senate Resolution 181—were submitted, in effect seeking instructions from the Senate for the guidance of the conferees. Senate Resolution 181 submitted by the four Senate Democratic members of the conference, contained a situs picketing provision. It was there because a majority of the Senate conferees wanted it there—it was also there because a great deal of very careful conferring had taken place among many Members of the Senate. We included situs picketing and insisted on it in conference on August 31 and September 1 because we had made very certain of what position we would find ourselves if we found it necessary to recess the conference and ask for instructions.

Interestingly enough, I believe it is the Senator from Arizona who has let the cat out of the bag when he said, as he did on April Fool's Day, that, "I think all of us are aware that the point of order obstacle was no real obstacle at all under either the House or Senate rules; it served merely as a convenient pretext for not putting the issue of common situs picketing to the test of a Senate vote."

Until April 1, I had not thought the point of order was a contrivance to prevent a vote. I had instead taken at face value the account of the minority leader set forth in the CONGRESSIONAL RECORD, volume 105, part 13, page 17228, when he described on September 2 what had happened on September 1:

> At this time I wish to say a word about the allusion which was made by my distinguished friend, the Senator from Vermont, in regard to a point of order, because I am afraid I had something to do with it. It was not partisan in any sense whatever. But inasmuch as I had served a long time in the House of Representatives, and had served for 16 years on conference committees, and had developed some familiarity with the Rules of the House of Representatives, it occurred to me yesterday afternoon that language dealing with so-called situs agreements involving the construction industry and the legality or illegality of a strike which involved many contractors—including prime contractors and subcontractors—was new matter. It did not appear in the Senate version of the bill; it did not appear in the House version of the bill; and although it was germane to a House provision under the general subject of boycotts and picketing, yet it was a new substantive provision.
>
> So while there was a hiatus in the conference on yesterday afternoon, I said to the distinguished Representative from Georgia, PHIL LANDRUM, that I would like to go to the House and talk to the Parliamentarian. So, together with Representative LANDRUM, I went to the House, and talked to the Parliamentarian.
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> Inasmuch as I have known Lewis Deschler intimately for a long time, I said to him, "Lew, here is the picture. I think you know the whole situation. Can you give us some suggestions as to what your notions are in regard to whether this is in order in the conference report?"
>
> He replied, "I will give you an opinion off the top of my head; I don't want to be committed at the moment. But I would say, offhand, that, generally speaking, under the House rules, new matter is not within the frame of the conference, and therefore it would be out of order."
>
> I initiated that, if no one knew it before; and it was said to me in the presence of Representative LANDRUM, one of the authors of the House version of the bill.

So, Mr. President, at the proper time, in the conference, that point was made. I helped energize it up to a proper degree; and we let it go at that.

Upon reading this, I prefer to believe that the minority leader acted out of respect for the Rules of the House and not to prevent the adoption of a situs picketing amendment. Moreover, I know the minority leader believes that we should join this year in passing this legislation which I also had assumed had the support of the Senator from Arizona. Senator DIRKSEN went on to say on page 17229:

Mr. President, I believe the chairman of the conference will agree with me when I say that if we have not completed the necessary action, in the sense that something still remains to be done in connection with the construction field, certainly the majority leader has given his word, and the chairman of the conference committee has given his word, and the distinguished junior Senator from Arizona [Mr. GOLDWATER] concurs, and I concur, that when we come back here in January, if there is something to be done in that field, we will do it, so that nobody will feel aggrieved or feel that he has been forgotten in the process.

In summary, the building trades unions operate in an industry the unusual nature of which has been recognized by the President of the United States in three messages to the Congress. Not only do they suffer from the disability of not having NLRB election procedures available, but they also suffer from the disability of not being able to engage in primary organizational picketing, even to the extent permitted by the bill which we enacted into law last year. The Denver Building Trades decision of the Supreme Court affirmed the view of the National Labor Relations Board that the existence of several employees on a jobsite meant it was extremely difficult to conduct a picket line at a jobsite without violating the secondary boycott provisions of the Taft-Hartley law. We therefore are presented with a group of citizens who are encouraged by national policy to believe in the value of collective bargaining, but who, in fact, are denied any method by which to bring the collective bargaining relationship into reality.

Mr. President, I commend the Senator from Arizona for his ardent exposition of his reasons for opposing a common situs picketing bill. I know he will take pleasure in knowing that he advocates breaking down the wage conditions of a very substantial group of the citizens of this country.

WHITHER AMERICA?

Mr. BYRD of West Virginia. Mr President, the junior Senator from Wyoming [Mr. MCGEE] delivered a sermon on Sunday, March 6, 1960, in the Universalist Church of New York City. The sermon was titled "Whither America?" It presents a challenging question and an equally challenging solution thereto. I congratulate the Senator on his excellent presentation, and I commend it to the attention of our colleagues in the Congress.

Mr. President, I ask unanimous consent to have Senator MCGEE's sermon printed in the RECORD.

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

SERMON BY THE HONORABLE GALE MCGEE, U.S. SENATOR FROM WYOMING, AT THE UNIVERSALIST CHURCH OF NEW YORK CITY, MARCH 6, 1960

"No man can serve two masters * * * God and mammon," was the winged warning of Jesus to Israel. Its terrible truth applies as inexorably to us as it did to Canaan, Babylon, Egypt, Persia, Greece, Rome, medieval Europe and a dozen other civilizations that passed from the earth because of inner decay and outer attack. In fact, more than 100 years ago, the British historian Lord Macauley warned, "Your republic will be as fearfully plundered and laid waste by barbarians in the 20th century as the Roman Empire was in the fifth, with this difference: that your Huns and Vandals will have been engendered within your own country by your own institutions."

That our decline impends is reason enough to sound the alarm. But that redirection of our national forces is called for without delay is an imperative not readily admitted to by a majority of our compatriots. Wishful thinking about peace and prosperity seems still to be preferred to realistic thinking about national priorities and personal sacrifice. Yet, the latter must come—and now—if we are to survive.

The time has come for Americans to rededicate themselves to clearly defined goals, to establish serious objectives and to set a new course on the high level that inspired the earlier, richer chapters of our national history. This would involve:

1. Assessing our total national needs and, in equating them with our international obligations, arrive at an honest price tag as a budget goal.

2. Refocusing our total effort in the direction of people instead of things. For example; to help people help themselves not because they're anti-Communist, not because they will oppose Russians or Chinese, but only because they are people.

3. Dedicating our national behavior to a deep and abiding faith in the militant pursuit of truth and freedom.

Let us make it clear that in our abundance, we desire to help others out of the goodness of our heart rather than out of the desperation of our souls. This simple formula of forthright honesty with ourselves at home and abroad will provide the edifice of the new America of the decade ahead. This simple formula will reestablish a nation that replaces hypocrisy with forthrightness, uncertainty and fear with national courage, cringing distrust with massive confidence in the pursuit of truth both within and without, and a simple dedication to the goodness of man whatever his nationality, his color, or his religion.

WHITHER AMERICA?

Struggle in the present world has come to be a conflict between consistently conflicting ways of life, that of totalitarianism on the one hand and of our own free society on the other. After a heroic crusade by ourselves through both hot and cold wars, we in America have emerged as the hope for those peoples who believe in the integrity of the individual in national independence and in moral strength.

Yet at the very moment when the challenge to our leadership is the greatest, our position seems to be wobbly and uncertain; at the time when Mr. Khrushchev openly declares economic war on the United States, we seem to cringe in uncertainty behind an economics of scarcity rather than develop and use our God-given abundance in the interest of mankind. All around us we see fellow Americans who have confused luxury with national prosperity; an entire nation which wallows amid surplus foods when most of the world has too little; a nation that seems to have lost its dedication to high principles amid an abundance of materialistic gimmicks; a nation that has surrendered ideals to gadgetry. These passing attributes reveal a nation and a people who have lost sight of their national purpose. They prompt one to ask, "Whither America?"

Two facets of American life reveal the moral decadence of public responsibility and the emergence of a massive public hypocrisy which have overtaken our land. One is in the realm of economics, the other in ideology.

In the first, our national obsession has become that of producing less and less in a world that cries out for more and more. We have been seduced by the wishful image of bargain-basement taxes and balanced budgets. We have been afraid to ask ourselves the right questions for fear that the right answers would require greater sacrifice. As a consequence, a great national hyprocisy has emerged with citizens demanding lower taxes and balanced budgets in the same breath that they demand more services for themselves and the country as a whole. Unless and until someone confronts the American people themselves with the harsh consequences of this hypocrisy, our position of great economic strength will have been forfeited.

Marshal Petain was moved to declare at the time France fell to the Nazis in 1940:

"Our spirit of enjoyment was greater than our spirit of sacrifice. We wanted to have more than we wanted to give. We spared effort, and we met disaster."

And so it may be here, with us.

Yet, in an election year, who has the courage in whatever political party to tell the electorate the frightening burden of need rather than the more pleasing illusions of personal comfort? Who has the courage to discipline the public mind to the harsh requirements of economic warfare and the drafting of a national budget geared to such goals? While it is easy to blame the politician, the root of the blame goes back in large measure also to the public mind that has become dishonest with itself.

It is time that we lay on the table what it is we, as a nation, must do to survive rather than what we can get by with in order to exist. This will require setting up national priorities which put first things first and leave convenience and comfort last.

If our materialistic opportunity in economic warfare stems from our God-given abundance, our ideological and psychological opportunity stems from our example of dedication to freedom. Yet at the very moment we are upholding freedom as a torch by which to light the world, we ourselves seem to be stumbling in the darkened shadows of selfishness, suspicion, and fear.

Selfishness has overtaken us through the abundance of our agricultural production. We make no bones of the fact that our most troublesome domestic problem is surplus farm commodities. And more and more we strive to produce less and less.

In a world in which three-fourths of the people have too little rather than too much, it is understandable perhaps that non-Americans in Africa and particularly Asia find this image of the United States at best perplexing and at worst revolting.

Last Thanksgiving Day we were in South Asia. Enjoying wide circulation by radio and the press in that part of the world was a Thanksgiving Day editorial from a New York newspaper. Its theme: "Dear God, we in America are floundering amid abundance. We thank Thee not for plenty—for our plentifulness has turned into too much. Our petition to Thee on this Thanksgiving 1959 is for less not more."

Asians asked us repeatedly, "How can you wish for less while we in this part of the world desperately need so much more?" How do we explain to developing Asia the complexities of distribution?

Suspicion is reflected in the recent regrettable incident of the Air Force manual. While the manual itself makes it clear that the most dangerous attribute of communism is that it resorts to appealing ideas, the Air Force manual nonetheless proposes to combat those same ideas with professionally trained patrioteers; to pursue hostile ideas with uniformed vigilantes.

How ridiculous the philosophy of the manual when arrayed alongside the philosophy of the great Thomas Jefferson. President Jefferson reminded us in his first inaugural that "If there be any among us who would wish to dissolve this Union or to change its Republican form, let them stand undisturbed as monuments of the safety with which error of opinion may be tolerated where reason is left free to combat it." The attempt to attack the great churches of America through the innuendos of suspicion is but a sordid remnant of those moments not too many years ago when America not only distrusted herself, but Americans were said to distrust one another.

What our long history should have taught us is that you cannot legislate ideas out of existence. One can only fight ideas with better ideas.

A manifestation of the creeping fear within ourselves is reflected in the drive of supposedly well-intentioned groups to demand loyalty oaths of certain college students. Once again this reflects a distrust of what we have always proudly held up as the greatest strength and resource of our way of life—education. There can be no explanation of the Communist disclaimer oath other than a lack of confidence in the basic principles of education. My deep conviction remains that the pursuit of truth, wherever it may lead, is the greatest bulwark of all against alien philosophies and ways of life; it remains the taproot of democracy engendered through the basic institutions of education. Once more, however, our Hollywood-Madison Avenue jag has tempted us to believe that loyalty can be packaged and bought. What we have yet to learn again is that loyalty cannot be legislated; loyalty cannot be coerced; loyalty can only be earned and inspired. Loyalty is an article of faith and a deep sense of dedication.

Concerning this decline in American goodness and the resultant tarnishing of the American image, no one has written more perceptively than my old friend and your esteemed trustee, Roland Gammon. In a recent penetrating tract entitled "Ethics Is Everybody's Business," he petitions his fellow businessmen to reexamine their ethics and their personal codes. His message was so moving that I inserted it in the CONGRESSIONAL RECORD so that my colleagues might share his thoughts. In a flaming indictment of our current national drift, Roland Gammon writes: "Having tried everything else, let us try honesty for a while. If we can't go back to plain living, let us at least practice high thinking, gracious speaking, just dealing."

TRANSACTION OF ADDITIONAL ROUTINE BUSINESS

By unanimous consent, the following additional routine business was transacted:

ADDITIONAL BILL INTRODUCED

Mr. LONG of Hawaii, for himself and Mr. FONG, by unanimous consent, introduced a bill (S. 3358) to broaden the coverage of the Federal Flood Insurance Act of 1956 to include losses resulting from lava flow due to volcanic activity, which was read twice by its title and referred to the Committee on Banking and Currency.

(See the remarks of Mr. LONG of Hawaii when he introduced the above bill, which appear under a separate heading.)

EXTENSION OF FEDERAL FLOOD INSURANCE ACT TO DAMAGE FROM LAVA FLOWS

Mr. LONG of Hawaii. Mr. President, on behalf of my colleague the senior Senator from Hawaii [Mr. FONG] and myself, I introduce, for appropriate reference, a bill to amend the Federal Flood Insurance Act of 1956. The act already extends to damage from tidal waves, which from time to time sweep up to the shores of Hawaii.

However, it does not presently apply to damage from another type of flow which in the past year alone ruined many acres of agricultural land on the island of Hawaii and destroyed scores of buildings. This destroyer is the flow of lava from the volcanoes on our big island. The volcanoes of Mauna Loa and Kilauea offer spectacular attractions for the people of Hawaii and for their visitors. They are safe to watch and thrilling. Unfortunately, the lava has caused millions of dollars of property damage as recently as this past winter.

Under the bill I am introducing, the Federal Flood Insurance Act would apply to damage caused by flows from active volcanoes, either in Hawaii or wherever they may occur in the rest of the Nation.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 3358) to broaden the coverage of the Federal Flood Insurance Act of 1956 to include losses resulting from lava flow due to volcanic activity, introduced by Mr. LONG of Hawaii (for himself and Mr. FONG), was received, read twice by its title, and referred to the Committee on Banking and Currency.

ADJOURNMENT TO MONDAY

Mr. MORSE. Mr. President, in accordance with the previous order, I move that the Senate stand adjourned until 12 o'clock noon on Monday.

The motion was agreed to; and (at 8 o'clock and 44 minutes p.m.) the Senate, in accordance with the order previously entered, adjourned until Monday, April 11, 1960, at 12 o'clock meridian.

EXTENSIONS OF REMARKS

The "China Problem" Reconsidered

EXTENSION OF REMARKS
OF
HON. CLAIR ENGLE
OF CALIFORNIA
IN THE SENATE OF THE UNITED STATES
Friday, April 8, 1960

Mr. ENGLE. Mr. President, our distinguished colleague in the House of Representatives, CHESTER BOWLES, has presented a penetrating analysis of the present situation with regard to American relations with Red China, in the April 1960 issue of Foreign Affairs magazine.

Providing us with a very realistic approach to the problem in an article entitled "The 'China Problem' Reconsidered," Representative BOWLES makes certain recommendations about ways we can "start to move off dead center in east Asia."

This is exactly the kind of thought-provoking assessment of the needs of U.S. Far Eastern foreign policy I had in mind when I made an address on this subject on the floor of the Senate last May. While my conclusions were not the same as Representative BOWLES' in every instance, we share the common belief that this country must develop a more flexible policy in Asia if we are to contribute to the stability of the free nations in that area. CHESTER BOWLES has made a major contribution to American thinking on a very complex problem and I commend his article to my colleagues.

I ask unanimous consent to have the article printed in the RECORD.

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

THE "CHINA PROBLEM" RECONSIDERED
(By CHESTER BOWLES)

In the autumn of 1949, after 22 years of bitter and protracted struggle, Mao Tse-tung and his Red armies finally established Communist rule over mainland China. The initial American reaction was division and confusion. It has remained so to this day. We still are certain only of what we will not do about China. We will not give formal recognition to the government in Peiping. We will not agree to Chinese Communist membership in the United Nations.

For too long now we have remained at the mercy of events set in motion by leaders in Taipei and Peiping. We have neglected to make constructive use of the periods of uneasy calm between recurring crises. We have failed to take into account adequately the long-range forces which seem certain to shape future developments. Has the time not come to face the fundamental realities of our "China problem"? Until we do, we shall continue to be severely hampered in our relations with all of Asia.

Under present conditions, debate over recognition of Communist China by the United States is largely a dead-end street. If we should propose an exchange of Ambassadors, Mao Tse-tung would surely ask if our recognition extended to Communist sovereignty over the Province of Formosa. And when we replied that it did not, his response would inevitably be a contemptuous refusal of our offer. A similar outcome can be predicted if we proposed that "both Chinas" be admitted to the United Nations. Chiang Kai-shek would also reject such a proposal. The stalemate would persist.