yesterday when the Texas delegation had the Pooh-Bahs there at a reception.

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

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

Mr. KUCZYNSKI. It is easier to spell Kuczynski than it is to spell Pickle backward.

LEGISLATION EXTENDING THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

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

Mr. MAYNE. Mr. Speaker, the President's message to Congress asking for a 3-year extension of legislation creating the National Foundation on the Arts and the Humanities shows his keen awareness of the Foundation's great potential for stimulating and improving America's cultural life. The President has very accurately stressed the urgent need for protecting and improving our cultural environment and has realistically defined the Federal role in attaining this objective as supportive rather than primary.

The substantial additional funds requested for the Foundation in the message prove that this administration is not just wishing for our country's material progress which is, of course, very important, but also has a deep concern for things of the spirit. I was particularly impressed by the statement that culture is not the exclusive property of big cities, but belongs to all Americans in every region and community.

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

TRIBUTE TO JAMES FREE

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

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

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

In an age when the volume of legislative work before Congress is staggering,
The appointment process is adopted in lieu of the elective process;
Polling places where a large turnout of black voters is expected are changed at the last minute to avoid the problem of discrimination against the southern black voter by doing less.

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

Our goal is full enjoyment of the right to vote for all Americans. That goal is not secured by outlawing only one method of discrimination while allowing the other hundreds of ways to take their toll. Every day in the South we witness a new way to discriminate. But the administration bill would attack only one—the use of literacy tests. All the rest is a retreat.

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

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

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

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

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

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

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

Section 5 now requires that a jurisdiction covered by section 4 must clear new voting laws and practices with the Attorney General as the district court in mining no effective decision before they become effective. The administration bill would in effect repeal section 5 and replace it with a remedy already proven to be a failure in the South, that of case-by-case litigation.

First, the litigating pace of litigation is simply too slow to catch up with rapid changes in voting laws and practices that regularly occur in the South, especially just before elections. Section 5 would not permit the rush of election to be changed at the last minute. Delaying the effective date of a new change for 60 days unless the Attorney General or the district court previously approves the change. As the Supreme Court said in Swann v. Board of Education, 402 U.S. 1 (1971):

After enduring nearly a century of systematic resistance to the Fifteenth Amendment, Congress might well decide to shift the burden of the task from the Federal Government to the States, and let the States enter into agreements with the Federal authorities to implement the Voting Rights Act of 1965.

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

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

Fourth, the burden of proof under section 5 falls on the administration to show that the new voting law or procedure is not discriminatory. As in tort law, when circumstances give rise to an inference that there has been discrimination, the onus of proof is on the defendant. The facts is called upon to rebut the inference and show that its conduct was proper. Under the administration bill the burden of proof would be taken from those who knew most and shifted to the civil rights movement. Section 5 would be taken, to paraphrase the Court from the perpetrators of evil and shifted to their victims.

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

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

The decisions are rendered without unnecessary delay; and

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

Sixth, Section 5 now permits private citizens to police the local jurisdictions. This was not clear until last March when the Supreme Court handed down the Allen decision. Thus, if the State government and the Federal Government forget that section 5 exists, an interested citizen can compel the jurisdiction to obey sec-
tion and enjoin the new law or practice, not because it is discriminatory but because it was not cleared under section 5. The Supreme Court in Allen perceived the need for private enforcement. The Court said:

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

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

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

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

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

The Voting Rights Act of 1965 does not affect all States and all localities and all people equally. Nowhere is it so. The act does attempt to secure the right to vote on a uniform basis. The standard is the same for all: Section 2 forbids discrimination in voting on the basis of race in any part of this country. Section 3 establishes a judicial remedy equally applicable in all parts of the country. However, experience with the judicial remedies legislated in 1964 and 1965 makes it clear that they are far too weak to achieve the goals in certain parts of the country. In those areas, to secure the goal of equal voting Rights, a stronger remedy was needed.

Sections 4 and 5 of the act reflect that need.

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

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

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

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

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

The Chair—Mr. Chairman, the time of the gentleman from Ohio (Mr. McCulloch).

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

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

The CHAIRMAN. The Chair will count.

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

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

[Roll No. 315]

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

The Committee resumed its sitting.

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

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

This matter is of the utmost importance to this nation. There is greater need for this law than that which has plagued us for all of our time as a nation; a lack of equal justice for all Americans. There have been many important legislative steps taken in the past 10 years to end racial injustice. They have always been bipartisan. They have always been the handiwork of the gentleman from New York (Mr. Cellers), and the gentleman from Ohio (Mr. McCulloch), and supported by a broad cross-section of concerned Americans on both sides of the aisle that is what makes this bill so special.

After all, the Republican Party was founded out of racial crisis by Abraham Lincoln. Turning to my own party, starting with the Presidency of Franklin Delano Roosevelt, a President that is what President Eisenhower when he appointed the Republican Governor from my State, Earl Warren, to serve as Chief Justice.

So it is fitting that today on a bipartisan basis, we continue a very important part of civil rights legislation for another 5 years. We have a new element to consider today. We have a new Attorney General, and he opposes continuing this legislation. He has a counterproposal. I have been interested in the Attorney General, and I have read a little about him. I think the new Attorney General is a lawyer who heard the Attorney General at the ABA convention and said he wondered how the Attorney General could continue to describe himself as a moderate. I quote the lawyer who observed him.

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

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

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

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

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

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

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

One need only review the record of the Civil Rights Commission to see the great ingenuity of those of the Deep
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If such legislation is so good for one section of our great Nation, why should Congress deny to Negroes from the same cup? To extend this act at the present time will only further compound its inherent inequities in several specific areas.

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

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

Mr. Chairman, a more extension of the Voting Rights Act to all 50 States is based upon statistics compiled in the 1964 presidential election would, in my judgment, place this Congress in the position of knowingly disregarding the 1968 election to the detriment of at least five States presently covered by the act. The use of outdated statistics cannot be justified by any system of logic. In 1965, Congress said that the act should apply only in those States where less than 50 percent of the voting age population turned out for the 1964, the most recent, presidential election. Continuing the existence of this act for an additional 5 years while retaining a base which is already 10 years old is completely irresponsible. The fact that five of the seven States originally covered and included under this oppressive section of the act have now passed the 50-percent requirement is completely overlooked.

It would seem to me that any new voting rights law that is passed should recognize the progress in voter participation occurring between the 1964 and 1968 presidential elections. The bill before us fails. Alabama had 343,000 more people voting in 1968 and yet it would give them no credit. Georgia had 97,000 more people voting in 1968 and they would be ignored. Louisiana had some 201,000 more people voting in 1968 and it would push them aside. Mississippi had some 245,000 additional persons participating and the bill says they should not be considered; South Carolina has 55,000 more people casting ballots and they would not be given recognition. Virginia had 317,000 more electors participating and it would ignore them. North Carolina had an additional 162,000 electors participating and yet they would be treated as if they did not exist.

Second, the Voting Rights Act of 1964 requires that States covered by said act submit every proposed change in their election process to the Attorney General or the Federal district court in Washington for prior approval. This is a particularly onerous burden because the 1970 census and recent Supreme Court rulings will probably require the passage of reapportionment and redistricting acts in all seven States. It would be difficult, if not impossible, to effect the required changes in district lines if the State retains its duty to perform their duties while shuffling teams of attorneys back and forth to the Nation’s Capital in order to make certain that it is permissible to use the left hand of a particular right of a certain section of the States in the redefining of the boundaries of one of their State districts. I should
think that even the least advocate of States rights would prefer to take their chances in this regard with their own internal State processes instead of in the federal district court in Washington, D.C.

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

MR. ROGERS. The time of the gentleman from Alabama has expired.

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

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

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

MR. MIKVA. Mr. Chairman, will the gentle- man yield?

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

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

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

MR. MCCULLOCH. Mr. Chairman, I yield 10 minutes to the gentleman from Virginia (Mr. Popoff).

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

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

What it says is that citizens will not be denied the right to vote and that right will not be abridged on account of race, color or previous condition of servitude. Congress had the appropriate legislation to enforce the 15th amendment was the Voting Rights Act of 1965. That is a fact. Moreover, the courts have determined that Congress did was appropriate. Therefore, the Voting Rights Act of 1965 is constitutional. That is a fact. And it profits nothing to try to gainsay these facts.

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

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

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

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

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

What is in section 5? The act contains 18 sections, 17 of which are permanent law and apply in every jurisdiction in all 50 States. Only two sections are not permanent. Those are sections 4 and 5.

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

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

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

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

I suggest that it is unwise to base such an absolute legal presumption upon election returns that are 5 years old. To do so is far more likely to be unconstitutional than it is likely to be constitutional. To do so is not to promote progress that these States have made—even though under the lash of this law—and this amounts to a penalty rather than a reward for progress.

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

Finally, I suggest it is unwise to re- gionalize this country, because whatever regionalizes this country divides this country.

Now I think it is proper to consider what is in the substitute to be offered by the distinguished minority leader. I shall say this—I believe that it calls for a definitive at this point. But I will try to summarize to explain its essential components.

The substitute would make nationwide a temporary suspension, as distinguished from a permanent ban on literacy tests. It would make nationwide residence standards for voting in presidential elec- tions in place of the order that would move from one State to another.

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

It would make nationwide the author- ity of the Attorney General to bring pre- ventive injunction suits in any jurisdic- tion in any State upon the proper legal predicate.

Finally, it would establish a nation- wide commission which would study the true impact of literacy tests upon minor- ity voter participation and the impact of voter fraud.

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

If I may be permitted to cite as an ex-
ample my own State. Although Virginia is covered and presumed guilty, every report of the Civil Rights Commission has found Virginia innocent of voter discrimination in the period covered by this study. Since Virginia has been covered under the 1965 act, not a single Federal registrar has been sent into a single election anywhere in the State of Virginia.

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

The CHAIRMAN. The time of the gentleman has expired.

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

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

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

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

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

Now you might also ask, If Virginia is innocent, why should Virginia be under the coverage under the act for another 5 years? My colleagues, that is just a little bit of nitpicking.

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

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

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

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

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

Mr. Celler. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. Mikva).

Mr. Mikva. Mr. Chairman, literacy tests and voter registration requirements are not a panacea. Residency is not the issue. Regionalism is not the issue.

The question is whether enough black people have been registered and are now voting to show that they have been treated as equals in the voting booth. Some might say that we are reversing the trend. Some are more tolerant and say, “No, we have just the right amount—but no more.”

And what the substitute really does is put the Federal Government back where it was for 100 years in the voting business—playing the futile game of “chase the legislature.” And that is like chasing a rabbit. No one knows the purpose of the game is to chase—but never to catch. And a whole series of cases in the thirties and forties established the rules of the game beyond any peradventure. Voting has been called to what is called the catch. One series of such cases were known as the Nixon cases.

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

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

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

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

The substitute if adopted, this will be known as the “Two Many Blacks Are Voting Act of 1969.” That is the way it will be interpreted, because that is the way it is going to work.

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

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

Mr. Wiggins. One of the significant factors in the substitute is the right of the Attorney General to obtain injunctive relief. I am sure the gentleman is aware of that. If that right is used, and I would expect it to be used, this problem of discrimination in the last five years could be solved.

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

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

Mr. Celler. Mr. Chairman, I yield the gentleman 5 additional minutes.

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

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

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

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

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

Mr. Mikva. I would respectfully disagree with the gentleman from California. We heard complaints, in fact, by the distinguished gentleman from Virginia and others, that in fact they cannot make the changes in any State that is considered. I did not make up the rules of this
The substitute also has another gamesmanship feature, in that there is not any problem, but the substitute says "We ought to study the 'no problem.'"

Now, I find that fascinating because you know what? Since 1964, as I recall, we have had the history that we are supposed to study the voting rights and laws of the various parts of the country. Title VIII of the 1964 Civil Rights Act specifically authorized the Commission to study voting rights. Do you not know what? We never funded that Commission, and the current budget does not fund that Commission. So, we have another kind of game on with reference to the funding of the Commission, which represents a new way of playing the appropriations game.

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

Mr. McCulloch, Mr. Chairman, I yield 6 minutes to the gentleman from Illinois (Mr. McClorey).

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

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

Mr. Chairman, my primary interest in the Voting Rights Act is to help assure that those members of our Society, who have acquired the right to vote, may have that right respected and be able to use it. The 1965 Voting Rights Act—passed the House of Representatives by the overwhelming margin of 262 to 138 by a margin of 79 to 18—reflected then the purpose and determination of the Congress to end the discrimination against voters solely on the basis of their race or color.

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

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

I am concerned about that, when originally proposed, the Voting Rights Act contemplated a 10-year life, and the 5-year term was a compromise.

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

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

It seems to me that this militates strongly against abandoning the existing Voting Rights Act at this time and substituting an untied and clearly less effective provision for it.

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

With regard to this part of the bill, it is noted in the hearings that up to June 30, 1969, 313 such enactments have been submitted to the Attorney General, 283 resulted in no objection whatever. However, 31 of the 10 enactments to which objections have been filed, six of the objected to changes have occurred this year. Also there were 32 such enactments pending at the time the temporary was made, page 308 of the hearings.

In other words, the measure which we are seeking here to extend has immediate and current application. The requirements of the law are needed now and in the immediate future. For how long I do not know, I cannot say with certainty. However, I am satisfied to rely on the original judgment expressed at the time the Voting Rights Act was passed in 1965,
and I will say with all candor that if the progress at the end of an additional 5 years is as good as the progress we have made during the last 4 years, I do not know why the statute should not be permitted then to expire, but not now.

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

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

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

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

And so I conclude with Mr. McCulloch, that we should not “tamper with success.” Let us not clutter up good legislation with amendments that are either ill-conceived or designed to get certain Districts to vote on the merits of the amendments and not on the main thrust of the issue. And let us not be distracted from the real task at hand.

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

Mr. RYAN. Mr. Chairman, the right to vote is fundamental to our democracy. Yet for almost 100 years after the adoption of the 15th amendment, which provided that the right to vote should not be denied or abridged on account of race, color, or previous condition of servitude, millions of black American citizens were denied that previous right.

Finally, in 1965 after the conscience of the Nation had been aroused by violence, brutality and murder perpetrated upon those who sought to register and vote, or to help others to do so, the Voting Rights Act of 1965 was enacted.

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

Selma dramatized not only the extent of the problem and of the right to vote, but the unconscionable methods used to disenfranchise Negroes in the South. In 1965 the Congress overwhelmingly adopted the Voting Rights Act. The House passed the bill by a 328-to-74 vote, the Senate by a 79-to-18 margin.

H.R. 4249 extends the key remedies of the act for an additional 5 years beyond August 1970 at which time States now subject to this law will either have to be able to obtain exemption. It is similar to H.R. 7510, which I introduced.

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

First, the suspension of literacy tests and devices.

Second the appointment of Federal examiners and observers. The act gave the Attorney General the power to certify to the Attorney General the States or political subdivisions in which fewer than 50 percent of the voting-age population were registered for or voted in the 1964 presidential election.

The duty of examiners is to prepare lists of qualified voter applicants. The observers have the task of monitoring the casting and the counting of ballots.

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

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

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

As has been pointed out in the testimony of the U.S. Civil Rights Commission, not all of this increase can be attributed to the Voting Rights Act alone. Extensive voter registration drives by civil rights groups and other citizen’s organizations have significantly aided in the achievement of this increase.

Nevertheless, it is clear that the efforts of these groups and the resulting increase in black registration would not have been possible without the protective devices and provisions of the 1965 legislation.

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

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

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

The following is a breakdown of the increase in the six States, which are fully covered, and the seven States to which voting rights can be extended:

In Alabama, the percentage of the eligible black voters was 31.6 percent. In 1969, white registration rose to 61.3 percent.

In Georgia, 62.6 percent of the eligible white voters were registered, but only 19.3 percent of the eligible black voters were registered. In 1969, white registration rose to 94.6 percent; black registration to 61.3 percent.

In Louisiana, the percentage of eligible voters, before the act’s passage, was 69.5 percent; the black registration was 31.6 percent. In 1969, white registration rose to 87.1 percent; black registration to 60.8 percent.

In Mississippi, before the act, white registration was 79.3 percent; the eligible black voters, while black registration was 6.7 percent. In 1969, white registration increased to 89.8 percent; black registration to 66.5 percent.

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

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

And in Virginia, before the act, 61.1 percent of the white eligibles and 38.3 percent of the black eligibles were registered to vote. By 1969, white voter registration was 78.7 percent; black registration was 60.8 percent.

I include at this point in the Record tables showing the statistics on the registration of black and white voters before and after the 1965 act:
An additional factor to be noted is that many of the black public officials elected in the South are concentrated in small communities where the majority of the population is black. In Mississippi, for example, only two black public officials have been elected in communities where blacks constitute a minority of the population, and in those communities the black population in 1960 was over 40 percent.

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

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

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

Although many of these incidents are less dramatic than the mass arrests and blatant disregard of rights which created headlines a few years ago, nonetheless they reveal that the struggle for equal rights is far from won. Much has been done to erase long standing obstacles to full political participation by black voters in the South...
in the political process; but much remains to be done before the last vestiges of discrimination and inequality will be rooted out.

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

According to the Civil Rights Commission,

As of March 1, 1969, examiners had been sent to 58 counties in five Southern States. Examiners in these counties had testified to a total of 167,364 persons, including 187,867 nonwhites and 5,977 whites. (Hearings before Subcommittee No. 5 of the Committee on the Judiciary on H.R. 4249, H.R. 5538 and H.R. 7510).

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

Federal observers had been appointed to monitor elections in five states in December 1968: Alabama, Georgia, Louisiana, Mississippi, and South Carolina. In Alabama, five elections have been covered by Federal observers. In Georgia, two elections have been monitored by Federal observers. In Louisiana, the number of elections to which Federal observers have been appointed are nine. In Mississippi, 10 elections have been covered by Federal observers. And in South Carolina, three elections have been covered by Federal observers.

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

If the Voting Rights Act of 1965 is not extended, the covered States will be able to escape after August 6, 1970. They will be freed from the three key provisions of the act which have made possible the dramatic increase in black registration—the suspension of tests and devices, the appointment of Federal examiners and observers, and Federal approval of any changes in election laws.

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

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

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

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

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

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

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

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

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

Justice Black said:

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

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

I would like to hear the gentleman comment on that.

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

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

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

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

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

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

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

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

Mr. RYAN. I yield to the gentleman.

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

Mr. DENNIS. May I state for the gentleman's information that the gentleman from Indiana has a heartfelt interest when it comes to States rights, although I do not recall that I took the floor on those occasions.
Mr. SCHUEKER. I thank my colleague. Mr. IVAN. I was pointing out the possible consequences if the act is not extended.

A State which escapes from the act would be able to require the re-registration of all voters, disenfranchising the Negro, who would have to be re-examined by the officers of the State to determine whether he is entitled to the right to vote under the Voting Rights Act of 1965. The painful process of registration would have to be repeated in the face of renewed threats of economic or political violence, and without the presence of Federal examiners. Black political participation could well return to its former low levels.

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

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

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

Another manner used to dilute the black vote is the consolidation of counties which have black voting majorities with counties which have white voting majorities. Mississippi also made use of this method, through the introduction and passage of an amendment permitting the consolidation of counties that border on counties in adjoining States, for the purpose of diluting the black vote.

Previously, this could only be done if a majority of voters within the counties to be consolidated approved.

Redistricting and redrawing municipal boundaries has been another method for diluting the black vote in the South. This device has been used in the past by both Alabama and Mississippi.

In addition, the full slate voting requirement has caused a weakening of black vote. This requires a voter to cast a vote for each position to be filled. If the voter does not vote the full slate, his ballot is void. Thus, the black voter may have no choice but to vote for the candidate in order for his vote for a black candidate to count or his ballot will be void.

A variety of discriminatory tactics have been used to harass and obstruct black voters—registration tests or permit assistance to illiterate voters, giving inad- equate or erroneous instructions, disqualification of black ballots on technical grounds, denial of equal right to vote, absence of facilities at location of voting places, and segregated voting facilities and voter lists.

In Mississippi, Alabama, Georgia, Louisiana, and South Carolina the names of black registrants were either excluded from the official voter lists or they were listed with incorrect party designations. There are the methods used to prevent blacks from becoming candidates or obtaining office.

One very simple way is to abolish the office. On several occasions, the office of the registration has been declared "re-evaluated" when a black candidate has filed for the office, and the decision has been that the office is no longer necessary.

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

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

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

In Lowndes County, Ala., where 80 percent of the population is black, and the black candidate for alderman was defeated because one polling place was provided in the precinct with a black majority.

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

In several Southern States, including Alabama, Arkansas, Georgia, and Mississippi, blacks have been prevented from running for public office because public and party officials have either failed or refused to provide them with pertinent information about the offices and elections involving black candidates. As a result, many black voters have been disenfranchised.

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

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

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

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

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

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

The CHAIRMAN. The time of the gentleman has expired.

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

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

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

Article I, section 2, of the Constitution, and the 15th amendment, require that any law to safe-guar-
reported that there is no evidence of racial discrimination in Virginia's voting
process. Further, in the absence of any
complaints, not a single Federal registrar
has been sent into a precinct, county, or
city of Virginia, nor have Federal ob-
servers been assigned to any election in the
State. Yet, under provisions of the act
my State now stands year after year under
threat that the provisions of the act may
be invoked, and in such event we would be
forced to go through the same grueling test in the Fed-
eral District Court for the District of
Columbia to prove that any tests or de-
cives utilized as requirements for voting
eligibility have not been used as a means
of racial discrimination during the past 5 years. This means that our
States are presumed guilty, on the basis of
arbitrary criteria, until they prove
themselves innocent, in contradiction of
a fundamental principle of justice. Fur-
ther, by requiring these few States to
seek approval of the Federal District
Court for the District of Columbia be-
fore making any change in qualifications
or procedures for voting we not only
deny them their right to vote without fear or intimidation
but also violate the principle of separa-
tion of the legislative and judicial powers.

Finally, the 1965 act is most remark-
able for the many kinds of voting fraud and
abuse that have been allowed to go on throughout the
Nation in a determined effort to penalize
a small section for imagined discrimina-
tion. I would be the first to support elec-
tion reform which would guarantee that
every voter can cast his vote
without fear or intimidation; and
which would also guarantee that his vote
would not be diluted by fraudulent votes cast by
others. We do need guarantees against
election fraud. We need stronger and
more consistent prosecution of those who
perpetrate fraud when they are dis-
covered. But the 1965 act does not carry
these guarantees, and we only attempt
to fool the American people if we pretend
we abide these guarantees. The act is a
teen-year extension of an unfair and dis-
criminatory measure. Mr. Speaker, I urge
defeat of this legislation unless it is
amended by the substitute, H.R. 12695, which
I have before me today.

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

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

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

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

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

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

A. Reduce residency requirement for all
elections to 60 days; to be without regard
to the qualification by candidates for
candidate without candidate
organization and knowledge. All contribut-
ing $5 or more must be listed individually
in the register. The registration
list must be complete and up to date.

B. Require a computerized voter list
including central state office master tape.

C. Require voting machines to be
used throughout the State.

D. Require every county and city to have
a central registrar with an office open at reg-
nular office hours.

The proposed constitutional amend-
ments have been approved by a special
session of our legislature this past sum-
mer and will be submitted to the Jan-
uary-February 1970 session for final
legislative action before submission to voters for approval in the November 1970
elections.

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

The proposed constitutional amend-
ments do not discriminate against anyone on the basis of race, color,
creed, or religion, and it should not be
necessary to get permission of the Fed-
eral Government to adopt them.

The amendment of H.R. 4249 or the adoption of any similar legis-
lation will not require such prior approval of the Federal Gov-
ernment unless. I again urge the
defeat of H.R. 4249 and the adoption of
H.R. 12695.

Mr. McCulloch. Mr. Chairman, I
now yield to the gentleman from Michi-
gan (Mr. Furstenberg) 2 minutes.

Mr. HUTCHINSON. Mr. Chairman, the
constitutional basis of the Voting
Rights Act of 1965 was the 15th amend-
ment. The constitutional basis for the
proposed substitute to be offered by the
gentleman from Virginia (Mr. Ger-
ra R. Ford) troubles me, frankly.

Apparentl the constitutional basis
of the substitute is a much broader con-
struction of constitutional power than
even the Congress can accept. Every provision of the Voting
Rights Act of 1965 is based upon the
teach of implementing the 15th amend-
ment. As I read the substitute, on the
other hand, all of these tests and devices
are to be suspended nationwide, on
any basis of implementing the 15th amend-
ment, not on any basis of protecting
the people's right to vote regardless of
race or color, but rather on the theory
that whatever the Congress deems to
be appropriate legislation in the field of vot-
ing rights can supersede admittedly con-
stitutional State law on the qualifica-
tions necessary for voting. The Fed-
eral power is supreme over the State
power, and so if legislation is appropriate, it can be upheld even though it supers-
edes otherwise constitutional State power.

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

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

I say if the Congress may by statute
suspend residency requirements of the
States, then I urge that the Congress provide how old a citizen must be to vote for
the President or Vice President, and we can
go further and say that in order to vote
for President or Vice President, the elec-
tion must be held on a Monday in
November and that the election district
shall be composed in a certain way, and the
vote shall be tabulated in a certain way.

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

Mr. Celler. Mr. Chairman, I yield
5 minutes to the gentleman from Texas
(Mr. Eckhardt).

Mr. ECKHARDT. Mr. Chairman, I
think I have the credentials as a sou-
thern with respect to geography, heritage,
and vernacular. I do not think there is
any particular ideology which is the
single southern orthodoxy, however,
I wish to comment that the bill and the
amendment which is to be offered in the
form of a substitute and also to com-
ment about legislation of this general
type.

Two faults have marked penal social
legislation, in my opinion. One is that
it too frequently shoots at old and infirm
inequities when new and virulent ones
are emerging. The second is that it ap-
plies its principles of law a case at a
time.
Thus the wolf is caught, flayed, its hide taken, and the bounty collected, while whole herds of sheep are being devoured.

I am speaking from some experience. It happened in my home State of Texas, where both of the Nixon cases that is, Nixon against Herndon and Nixon against Condon, and where Smith against Allright all arose between the years 1942 and 1943. It was during this draw-out period that Negroes in my State were seeking their rightful participation at the polls.

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

I do not quarrel with the thought that this statute is regional. It is not regional if a State in the region has escaped the formula for inclusion. I want to say quite frankly one of the reasons Texas escaped that is, because the Negroes, one-third of the population belongs to two minorities.

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

About one-sixth of the population is Negro.

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

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

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

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

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

Mr. ECKHARDT. I thank my colleague.

Mr. McCULLOCH. And 61.8 percent of the white people are registered to vote.

More of the black people are registered than whites in Texas.

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

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

Mr. WATSON. The gentleman knows the high praise that has been for his ability.

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

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

The situation is simply this: that when the presumption of discrimination with respect to race fell upon those States which had accomplished the 50 percent level it became necessary to give a period of time in which those States could have Federal surveillance exercised over them in order to be assured that the electorate was not only the ultimate the vote and the political pressure in the State would protect the honesty of the electorate in that State and the control of that State. Here is what happened in my State, and here is how this was ultimately cleared up. Here are the dangers that can exist today if this law is not continued.

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

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

Mr. ECKHARDT. Though we had met with difficulties, not an early date we had not met the standards of the Brown decision of 1954.

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

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

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

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

The Voting Rights Act of 1965 includes provisions suspending literacy tests and devices used to deny the right to vote to Negroes and enables Federal examiners and observers in areas where there is evidence that violations of the 15th amendment due to manipulation of the registration system. The examiners prepare lists of eligible voter applicants on which State officials are required to designate qualified and unqualified registrants. The States and political subdivisions, in which literacy test suspensions are in effect, from enforcing new voting procedures which have the object of preventing black voter registration.

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

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

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

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

The enactment of the Voting Rights Act of 1965 was a milestone in positive legislation designed to assure equal rights to all of our citizens. It was a long, hard-fought battle here in Congress and outside in the southern battlefields. We all remember the controversies and heated debates on the floor in securing passage of this act. We should never forget the violence, terror, bloodshed, and sacrificing of human victims that accompanied enforcement of this act and also exploited by an assassin; Vernon Dahmer, a local worker in voter registration drive in August 1965 was murdered by arsonists who fired burned his home and grocery store. Violence against civil rights volunteers, were shot and killed by terrorists. These are but a few who come to mind immediately. We
know there are countless others who were victims of shootings, burnings, and other outrages. We paid a very high price to guarantee “freedom and justice for all” and we are now beginning to see some of our efforts. Recent statistics indicate that there are 900,000 Negroes, half a million of whom have not voted in the last election, who are eligible to vote. In the South, where Negro voting was illegal, there are 400,000 Negroes who were registered and who are eligible to vote. This is likely to be a large increase since 1965. And we see 400 Negroes who were elected to public office in the several southern regions covered by the hearing.

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

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

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

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

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

Mr. McCLELLAN. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. RAILBACH).

Mr. RAILBACH. Mr. Chairman, the Voting Rights Act of 1965 was intended to eliminate and prohibit the practice of racial discrimination in the administration of the laws of the States. There has since been a awakening of the public to the fact that civil rights, voting rights, and human rights are not a local or regional matter—they are both constitutionally guaranteed and are a concern of all parts of the country.

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

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

I do not want to weaken the current law that now applies to the seven Southern States, and in my opinion the administration substituting that which is offered does dilute the effectiveness of the present law. It shifts the initial responsibility of the presently covered States from those States in seeking relief from the increasing discriminatory problems under the Voting Rights Act. It further would change the forum in such cases from the district court in the District of Columbia to other Federal district courts. There have been cases delayed in other civil rights matters.

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

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

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

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

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

I said at that time that this Congress could agree on reasonable legislation with respect to equal representation, but that our people that I could in good conscience support such legislation. I believe every qualified citizen should be a part of the democratic process.

I was very much amused yesterday, having heard the arguments in 1965.
Mr. CELLER. Mr. Chairman, will the gentleman yield?

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

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

Mr. WAGGONNER. Absolutely, because it is better. It has its faults with which I disagree but it is at least fair. What has been "sauce for the goose" will now be "sauce for the gander." I want every voter to receive the same treatment as the last voter. I yield to the gentleman.

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

Mr. WAGGONNER. I yield to the gentleman.

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

Mr. WAGGONNER. Section 6?

Mr. ECKHARDT. Yes.

Mr. WAGGONNER. Yes, it does, but the trigger clause of the present law uses does not exist in this substitute, in the same manner as it exists in the present bill.

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

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

Mr. ECKHARDT. May I complete my question.

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

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

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

Mr. ECKHARDT. But section 3 activates section 6.

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

Mr. Chairman, the Attorney General admitted that there was no discrimination in voting procedures in Bossier, Caddo, and De Soto Parishes, La. The ranking member on the Committee on Rules on the Democratic side says that if there is no discrimination, this law should not apply. But you intend for it to apply.

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

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

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

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have to quit whipping the South. What else am I talking about? Do not tell me the

I have here an article from the Peterson, N.J., newspaper of November 20, last, in which there is an article which quotes the superintendent of schools there. He said that he had been told, by the school district, to hire a teacher with a southern accent. Now, this is discrimination too. I know the Members abhor my saying it, but the South is still being discriminated against for something to which there is no justification and it is continued vindictively. What other basis exists for your actions? The answer, of course, is none and you know it. You owe nothing to me and I have nothing to do with you.

Mr. McCulloch. Mr. Chairman, I yield the gentleman from Connecticut (Mr. Meskill) 2 minutes.

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

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

The other 17 sections of the act will remain law fully and indefinitely without any further congressional action. The two sections we are concerned with are sections 4 and 5. These are the temporary ones. These are the sections which will expire on August 6, 1970, unless extended.

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

Under the permanent provisions of the Voting Rights Act: First, when the Attorney General brings a suit under the 15th amendment to protect voting rights against racial discrimination, the court is empowered to enter either an interlocutory order or a final judgment requiring the Civil Service Commission to appoint Federal examiners to register voters; second, in such suit, the court is empowered to suspend the use of literacy tests "for such period as it deems necessary"; third, in such suit, the court retains jurisdiction "for such period as it deems necessary," during that period, the State cannot implement any change in its voting laws until the court determines that the new law will not have the purpose or effect of racial discrimination.

The Attorney General of the United States has filed, within 60 days after submission, to object to the new law; fourth, when Federal examiners have been appointed under such suit, the Attorney General may require the Civil Service Commission to select and appoint Federal examiners to enter the voting area.

Second, if the Attorney General finds the voting area to be a "dangerous voicing precinct to overses the process of voting and the tabulation of votes; fifth, no State may enforce a literacy test with respect to a registrant who has completed the seventh grade; sixth, a present voter, or a convicted person, may register or continue to register vote; seventh, the Attorney General is empowered to institute a judicial proceeding when he has reasonable grounds to believe that any person is about to engage in any act prohibited by the Voting Rights Act.

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

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

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

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

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

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

I represent a State which has a literacy test. I am not a qualification for section 5. I feel certain that in Connecticut the literacy test is not a racially motivated impediment to voting. Nevertheless, under the permanent provisions of the Voting Rights Act, the courts could suspend for such period as the court deems necessary if the Attorney General were to bring a suit under the 15th amendment to protect voting rights against racial discrimination. This is as it should be. This is evidence enough.

I must agree with the dissent of Mr. Justice Black in the case of South Carolina v. Katzenbach, 383 U.S. 301, 358:

Section 5, by providing that some of the States cannot pass State laws which might go contrary to the constitutional amendments without first being compelled to beg Federal authorities to approve their policies, so distorts our Constitution and gives the Federal Government the power to render any distinction drawn in the Constitution between State and Federal power meaningless.

The power to pass State law was reserved to the States; the power to override that reserve rests with the Federal Government.

This section 5 was added in 1965. It is not to be construed as a permanent section.

The section was added to take care of 15 States which had United States District Courts which would not hear the cases. The 15 States were the South. Since 1965, the number of United States District Courts in the South has been added. Now 15 States, including the South, which had United States District Courts which would not hear the cases, have United States District Courts which will hear the cases.

Mr. Chairman, I wish to support the substitute which will be offered by the gentleman from Michigan (Mr. Gerald R. Ford), which provides for evidencing treatment of all States in which United States District Courts hear the cases. The United States District Courts in five of the 15 States, which have made sufficient progress by 1968 so that under the criteria of the original act, would no longer be covered by the trigger provisions.

It provides:

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

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

Third, establishment of a Presidential Commission to be known as the National Advisory Commission on Voting Rights,
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to study the effects of literacy tests and the impact of fraud or corrupt practices on the electoral process and to make recommendations to the President and Congress by January 15, 1973;

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

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

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

Mr. McCulloch. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. Winters).

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

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

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

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

In addition to that approach, which I believe is sound, it has been loaded down with various provisions unnecessary to the main thrust of the bill to which I refer the broad blanket discriminatory practices. Mr. Winters, the gentleman from New York, that the provision abolishing literacy tests all over the country is in all probability unconstitutional. It has been upheld in a case that I cited by the Supreme Court of the United States, and I do not believe that case has been overruled. So I do not believe that nationwide ban of literacy tests is a valid, constitutional provision in the administration bill. Because I do not at the appropriate time I am going to offer an amendment here to take that provision out of the administration bill. I believe it would be much better to have and to consider, I could vote for with a better conscience if that provision were removed.

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

Mr. Sandman. Mr. Chairman and my colleagues, what I see happening here today reminds me to a large extent of what went on in the early days of any State back home. We seem to follow a policy there that, whenever we do something that succeeds and is worth while, we stop doing it merely for a catastrophe from time to time.

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

Mr. Chairman, I listened to my friend, the gentleman from Louisiana, and there is no man for whom I have more respect than I have for the gentleman. I understand his feelings. I do not believe it is right that the Federal Government should have a right to give the Attorney General such vast powers. I think it is right that the States should work for themselves what the States want to do. For a lifetime I have supported the home rule theory that the States should be
able to do those things, and I would like to see that done.

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

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

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

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

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

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

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

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

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

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

I do fear that many Members of Congress feel that the voting problems at which the 1965 Act was directed have been solved. They have not. The voting rights mechanism remains to be fully implemented. We cannot retreat on this front. If we do, we run the risk of erasing precious and hard-won gains, and diluting the ability of the American Government to meet the legitimate expectations of its citizens.

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

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

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

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

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

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

The Voting Rights Act in less than four years has demonstrated its immense value. It has brought more than 800,000 voters to the polls that have traditionally been sought to disenfranchise minority group members. It is directly responsible for the election of about 400 Negro officials in communities that had never had Negro officeholders since Reconstruction.

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

What is the clear evidence supporting extension of the Voting Rights Act? First, registration figures indicate a smaller and to vote, and several jurisdictions have undertaken new, unlawful ways to diminish the Negroes' franchise and to defeat Negro candidates. A Civil Rights Commission study of May 1968, entitled "Political Obstacles to Black Participation in the Electoral and Political Processes," indicates that 14 of the 15 states in the South have experienced new laws to suppress the Negro vote.

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

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

The report recounts incidents in which black citizens feared white economic reprisals if they registered to vote, or stua...
tions in which the city clerk was not available to register voters except at the most inconvenient hours for working people. In fact, charges of a county clerk making a crippled black wait and stand and walk around for 15 minutes while she was being registered to vote. Polling places were changed without public notice, and registration lists marked as already voted by some voters when they did not, names simply removed from the list, and registration lists made inaccessible in advance of the election in order to discourage challenges of unqualified voters. The registration of defense of those challenged unjustly.

The Voting Rights Act requires that covered States clear their new voting statutes and practices with the Attorney General or the Federal District Court for the District of Columbia, and, in fact, Attorney General Mitchell disapproved of a number of proposed changes in Mississippi and Louisiana last summer. Yet, as Mr. Chairman, you are a member of the Committee on the Judiciary (Mr. McCulloch) observed on July 2, the administration bill proposes to eliminate that requirement of the law "in the interest of expediency and elimination of unflagging southern dedication to the cause of creating an ever more sophisticated legal machinery for discriminating against the black voter." To give the Attorney General nationwide authority to bring voting rights suits to challenge discriminatory practices and laws, as the administration bill proposes, would move the struggle to obtain electoral justice from the ballot box to the courtroom—where, in the past, our lawyers have been successful in developing, and where we can bring the first case and the last case, the first victory and the last victory the very success of the Voting Rights Act.

Further, in testimony before the Judiciary Committee, the Attorney General indicated that he did not need additional attorneys in the Civil Rights Division. There is, however, substantial evidence that this division is undermanned now, not to speak of the increase in litigation likely to result from the substantial increases. Surely there is ample need for continued and even more vigorous efforts on the part of the Federal Government to insure justice in southern elections. Indeed, the Civil Rights Commission report on the Mississippi elections makes several recommendations about strengthening the effectiveness of Federal examiners and observers. I cannot express more cogently than the distinguished gentleman from Ohio my objections to the administration bill. "As I understand the provisions of the administration bill which pertain to the heart of this controversy," Mr. McCulloch said in July, "It is to move from the courtroom to the ballot box, where the need is least and retreat from those areas where the need is greatest."

This Nation made a solemn commitment in 1978 that "the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." Ninety-five years later we passed legislation to implement that promise. It would be the most callous act if we were to mark the 100th anniversary of the 15th amendment by acquiescing in the Southern States' continued pursuit of Negro subjugation and discrimination. There have been no complaints from the 14 other States outside the South which have like laws and other devices, yet there continues to be quasi-disenfranchised men in the South who persist in devising ever more subtle forms of voting discrimination. That is where Federal resources must be concentrated; that is where the job must be done.

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

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

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

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

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

I know, Mr. Chairman, that in many instances those of us who have been the beneficiaries of the status quo find it difficult to accept the fact that in this day and in this age certain voices in America are now saying that we are through with gradualism and we are through with tokenism, and we are no longer a part of the American dream that everyone so unequivocally speaks about.

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

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

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

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

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

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

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

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

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

As Father Hesburgh says, this substitute amendment rips out the trigger provisions—heart of the 1965 act. Mr. Chairman, I want that you do that then you open the door of the past, and you close the door to the future. I do not think we want to do that.

In addition thereto, another great wrong would be done this country by getting away with the preclearance provisions dealing with new voting laws or practices. That has been of material value to protecting the vote and of the franchise to the Negro.

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

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

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

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

When you consider the thousands of
 communities and municipalities and boards and councils that are constantly promulgating new laws and changes in voting statutes that may affect Negroes and other minorities. How in thunder can the Department of Justice face these changes? It could not possibly do it. Therefore, we provided in the 1965 act that if there are any changes, there should be notice given to the Attorney General. If he approves the change, well and good. If he disapproves the change, then the municipality or State authority can go to the court and appeal the decision. This procedure has worked. Now that is all, it is only required under this Mitchell-Ford substitute.

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

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

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

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

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

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

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

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

Today, 800,000 Negroes have been registered in the seven States covered by the 1965 act. More than 50 percent of the eligible Negroes are registered in every State covered by the act. Whatever disparities existed in 1965, these are no longer applicable in 1968. We are now applying one law to one section of our Nation, and another to the rest.

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

There are large numbers of illiterate men and women voting throughout most of the big northern cities, and surely these have just as much right to the protection of a Voting Rights Act as citizens in the seven States presently covered. Surely these are entitled to the protection of such a substitute, substandard education of northern city ghettos have the same right to the protection of the law as citizens of the Southern States.

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

Mr. MONTGOMERY. Mr. Chairman, I feel compelled to speak out against any extension of the Voting Rights Act. The Voting Rights Act was discriminatory this law has been, has been enforced in a discriminatory manner for the last 4 years, and will continue to be discriminatory unless changes are made in the law. To provide an extension of this infamous piece of legislation without change will only serve as an encouragement to the
take the actions. The extension, as reported by the Judiciary Committee, seeks to single out one section of our great country as a scapegoat for so-called past sins that have been committed throughout the land.

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

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

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

Finally, I think it is important to note that, unlike the Voting Rights Act of 1965, has begun to change the political picture in the South. It has made it possible for the Federal Government to give effective protection to black Americans’ right to vote which the 15th amendment guarantees.

Congress undertook to protect voting rights by the Civil Rights Acts of 1957 and 1960 and by title I of the Civil Rights Act of 1964. All of these laws have been intended to provide just and adequate protection of voting rights. None of these legislation has made possible any significant increase in Negro registration and voting in the Southern States because, by congressional determination, the Senate was black and because registration officials had ways of circumventing court orders forbidding discrimination.

Congress undertook a different approach to protect voting rights by administrative instead of judicial enforcement of voting rights. The Voting Rights Act of 1965 takes away from registration officials the power to use literacy tests and
other devices to prevent Negroes from registering. It empowers the Attorney General to provide for the registration of voters and for the examination of voters. Examiners in counties where Negroes still cannot register are assigned to the exercise of voting rights despite suspension of tests and devices. It authorizes the Attorney General to send election observers to ensure that registered voters are permitted to vote and that their votes are counted. And it bids States and counties covered by the Act to put into effect any new voting laws without approval of the Federal district court in the District of Columbia or of the Attorney General.

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

And because thousands of new black voters were going to the polls this year, hundreds of black candidates have been elected to public office in the Southern States. And at the same time white candidates and officials will have to increase their efforts and just demands of Negro voters if they wish to be elected or to stay in office.

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

Three years ago, just after passage of the Voting Rights Act of 1965, the Southern Regional Council compiled a list of Negro officeholders in the South. The list totaled just over 70 names. Today, counting some 80 black candidates elected for the first time in the November fifth general election, the list totals over 380 names. The roster is more than five times as large today as it was just three years ago.

This dramatic increase is one of the more significant developments in Southern politics today. It is based on the fact that five Southern states gave Negroes the right of full registration. Negro voters can overshadow the deepening involvement of black Southerners in the region’s political affairs.

By July of 1969, the number of black elected officeholders had increased again from 380 to 473. It is imperative, Mr. Chairman, that the most essential provisions of the Voting Rights Act—suspension of literacy tests and devices, required Federal approval of new voting laws, Federal examiners, and election observers—remain in effect.

H.R. 4249 as reported by the Judiciary Committee would extend these provisions for 5 years. In its 1968 report, entitled “Political Participation,” the Civil Rights Commission has given us extensive evidence of continuing resistance to Negro voting.

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

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

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

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

Since 1965, the Civil Rights Commission reported that an additional 240,000 Negroes had been registered in States covered by the Voting Rights Act by the summer of 1968. The gains have been significant, but there are still 176 counties and parishes in six covered States where less than half the voting-age Negroes are registered. In 79 of these areas, less than 35 percent are registered. There is clearly much more to be done.

Another significant change is the fact that white registration is a much larger percentage of the voting-age population. The Civil Rights Commission reports that 99.4 percent of the voting-age Negroes in Mississippi are now registered, but for whites the figure is 92.4 percent. The proportion of registered whites is 55 percent greater than the proportion of registered blacks. In Alabama, the discrepancy is even greater. In Georgia it is 51 percent greater. In Louisiana, the discrepancy is 57 percent. We must continue our efforts to close these gaps.

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

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

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

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

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

The administration’s suggestion that literacy tests be banned across the Nation, and that residency requirements be enacted upon a policy of “head count” may not be good for drafting a new Constitution without seeing how they have a place in the pending legislation. The Voting Rights Act is directed at the eradication of racial discrimination in voting. Use of literacy tests outside the South has not been the subject of complaints of voting discrimination on the basis of race. Similarly, residency requirements have not been shown to be techniques for depriving Negroes of the right to vote.

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

Mr. BRASCO. Mr. Chairman, I rise in support of the extension of the Voting Rights Act of 1965 for another 5 years. This will give us the opportunity to implement the 15th amendment to the Constitution and to alleviate blatant discrimination in our country’s electoral process.

Prior to the passage of the Voting
Rights Act of 1965, a succession of legislative and judicial pronouncements had proven totally ineffective to deal with history's deep-rooted voting debarments. The case-by-case litigation approach mandated in the 1957 act was met by massive State and local resistance. Certain States initiated new procedures designed to prevent court intervention through judicial decision. Most common among these procedures was the racially discriminatory use of literacy tests.

The key provisions of the 1965 Voting Rights Act are—

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

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

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

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

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

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

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

Mr. HELSTOSKI. Mr. Chairman, it is my understanding that the President has not expressed any opposition to the general provisions of H.R. 4249, which provides for a 5-year extension of the Voting Rights Act of 1965, we will be doing a grave disservice to our people and their Government.

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

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

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

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

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

The Negro minority citizens who before 1965 had never had the opportunity to vote or hold elective office. The 1965 act works; more than 4 years of experience with it proves that.

But it is not perfect. That is why I resist the effort to simply extend its life until 1975. Why not expand its coverage, strengthen its enforcement machinery, cure its defects? I say there is no reason why not. And that is why I support the President's amendment. It is a carefully considered package which would do all the things I have suggested.

Primarily, it will blanket the Nation with the same protection the present act reserves for one region. Why should minority citizens in Harlem and Watts or Roxbury or Hartford be denied the same protection as blacks in Alabama or Georgia? They should not. No one can argue the opposite. The amendment will see that the Federal examiners and examiners will be able to function in any Federal district court action and that the Nation's many desirable reforms that the amendment will accomplish which the committee bill would not.

Now is the time to make these reforms, not 5 or 10 years from now. The 1965 act has started the momentum for action which these amendments will carry out.

We are not scraping the tested provisions of the old law as some have suggested, to add new ones which will guarantee to all the rights set forth in the 15th amendment.

The amendment proposes useful, workable reforms which this Nation needs. The President and the Attorney General have both supported the President's proposal to broaden voting rights reform. Those proposals, embodied in the amendment now under consideration, deserve the support of everyone in this body. They have mine.

Mr. Chairman, in my judgment, this would be the adoption of H.R. 12695, the nationwide voting rights bill.

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

I wish to comment specifically on one provision of the President's bill which would make an important change in the residue of voting provisions. Under this bill, no residency requirement could be applied in an election for President and Vice President if the voter is qualified to vote who has in a State since September 1 of the election year would be permitted to vote in that State. A person changing his residence after September 1 would be permitted to vote in the State from which he moved.

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

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

I can understand that a residency requirement might be reasonable for local elections. It would give the new resident sufficient time to familiarize himself with local issues. But there is no need for a residency requirement in presidential elections. The issues in presidential elections are nationwide in scope and the issues are widely disseminated on a nationwide basis. The fact that a person lives in one State and works in another State should not be the deciding factor as to whether he can intelligently vote for President and Vice President.

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

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

But sometimes we lose sight of that goal.

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

Mr. Chairman, we cannot make this once and for all. We have to repeatedly divide it by saying in some places we will insure the rights of voters, but in other places we will not.

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

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

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

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

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

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

The Voting Rights Act of 1965 was the direct result of a great upsurge of moral indignation in this country, 7 years of litigation by the Justice Department had produced only 36,000 new black voters on the rolls. Black people and white people had died attempting to register or for their efforts in urging black people to register. In May of 1965 Luther King crossed a bridge at Selma, Ala., was the act passed. Within weeks, thousands of black voters were on the registration rolls. The numbers grew to over 700,000. Today, over 5 million blacks are registered in the South. There are 463 black officeholders.

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

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

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

Mr. STEIGER. of Wisconsin. Mr. Chairman, today we are debating one of the most important pieces of legislation in all our history. The Voting Rights Act of 1965 was a landmark. It was a great accomplishment. It was a great victory. It was an extraordinary accomplishment. It was a victory that enlarged the franchise "a most transcendent thing." All in this Chamber, I know, agree with him.

To see that the franchise is given to all the people of this Nation is the task which should set for ourselves today. The 15th amendment made a start toward this goal; the 1965 Voting Rights Act made it a reality in some States. Today we have the opportunity to complete the work. The vehicle for this is the amendment now on the floor. It would extend to all the tested protection the 1965 act reserves for a few. This is a nationwide version of the 1965 act. The ban on literacy tests is extended from eight States to 50, the power to send Federal voting examiners and National registration is extended to all States, and the Attorney General, who is given nationwide power to institute voting rights suits and void discriminatory voting laws, residency requirements are severely limited, and a Voting Rights Commission is created to look into all the facts on this subject and make recommendations for permanent legislation. The amendment would provide a patchwork for disenfranchisement rather than simply extending the old law for an additional term. The amendment is constructive and innovative, building on the experience of the 1965 act; the committee bill does not go beyond this innovative, adding nothing new to the legal ability of the Justice Department to attack violations of the 15th amendment.

While I strongly endorse the entire amendment, I think section 2(b) is of vital importance. Millions of people in the United States change their residence each year. Any legislation dealing with voting rights must face the problem of insuring that these people are eligible to vote. Accord
ing to the Bureau of the Census, in 1968 more than 5.5 million citizens were unable to vote because they could not meet residency requirements prior to election day.

A residency requirement may be reasonable for local election to insure that the new voter has sufficient time to familiarize himself with local issues. But such requirements have no relevance to Presidential elections because people move and news coverage is nationwide. How can we permit the stationary citizen his role in national elections, while denying it to those who exercise their right to move freely from one area to another? The answer is that we should drop them.

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

We are concerned with all the other portions of the amendment—are vital pieces of legislation which will bring to millions a vote they are not now permitted to exercise. The amendment buts into the Supreme Court's domain. It imposes action which it has already shown strengthens it. I support the amendment fully; I hope a majority of the Members of this body agree. This is a good proposal and a fair one. It deserves approval.

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

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

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

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

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

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

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

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

In other words, my people will no longer be presumed guilty of discrimination because less than 50 percent of them are registered voters. This is true both in presidential election. That so-called triggering device, grossly unfair to the South, will be eliminated. If there is discrimination or election fraud anywhere in the country of the United States, the Federal Government will have the right to initiate voting rights lawsuits to challenge the so-called discriminatory laws and practices.

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

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

Why should we extend section 4 for example, to all States simply because fewer of its citizens chose to participate in the general election of 1964. The 1964 election returns used as the basis for figuring are completely outdated by now.

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

Why should 39 counties in North Carolina continue to be forced to remove all reasonable voter qualifications while 61 other Tar Heel counties are unaffected? Why should it be extended to 5 of the act when it serves no other purpose than to center judicial authority for one special law in one place—Washington, D.C.?

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

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

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

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

It is a right which indisputably must be extended to every American citizen. The 15th amendment of the Constitution provides that "the right of citizens of the United States to vote shall not be denied or abridged by any State on account of race, color or previous condition of servitude."

It directs that—

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

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

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

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

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

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

Such tests and devices were to be suspended unless it could be shown in a declaratory judgment proceeding that, during the preceding 5 years they had
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not been used to deny or abridge the right on vote on the grounds of race or color. No such declaratory judgment could be made relating to any plaintiff for 5 years after the final judgment of any Federal court had been entered—other than the denial of a declaratory judgment—determining that the request or the action of the right to vote on account of race or color through the use of such tests or devices have occurred anywhere in the plaintiff's jurisdiction.

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

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

Congress had learned that substantial voting discrimination presently occurs in certain sections of the country, and it knew or should have known that the evil might spread elsewhere in the future. In acceptable legislative fashion, Congress chose to limit its attention to the geographic areas where the Congress has detected necessity.

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

Since enactment in 1965, 64 counties or parishes in five States have been designated for the appointment of one Federal voter examiners who are authorized to list qualified applicants to vote. Federal election officials, who can be assigned under the act only in counties designated for examiners, have served in five election years in 10 in Louisiana, 12 in Mississippi, and five in South Carolina. The presidential election of November 1968, the only such election held under the Voting Rights Act, necessitated the presence of 8,500 Federal election examiners in 24 counties and parishes in Alabama, Georgia, Mississippi, Louisiana, and South Carolina.

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

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

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

Legislative districts have been racially gerrymandered.

The terms of office of incumbent white officeholders have been doubled.

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

Counties have been consolidated.

Full-state voting has been instituted.

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

The appointment process has been substituted for the elective process.

Negro poll watchers have been excluded and subjected to white control.

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

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

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

There has been an indiscriminate purging or failure to purge voter lists.

There has been discrimination in the selection of election officials.

There has been an indecisive recitation of Negro qualifications.

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

There has been a host of physical and economic intimidations.

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

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

I also support this simple extension.

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

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

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

In addition, I urge that the Congress eliminate residency requirements as a barrier to voting for the President and Vice President. I firmly believe that each State should have the right, within the limits of the Constitution, to establish voting requirements. I also support a small number of residency elections. At the same time, I am concerned that an increasing number of our citizens are disfranchised from voting in the presidential elections because of improper registration. It is estimated that approximately 5% million Americans are denied the right to vote for the President because they have moved from one State to another.

There are, of course, good reason of State or local conditions and candidates, but the same considerations do not apply to a presidential election. I support the elimination of such residency elections. I urge the President to deny one the right to vote not only limits our democracy but diminishes our concept of citizenship. The sense of belonging and of participating is a vital aspect of such citizenship.

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

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

It would not be right to use one measuring rod in New York and an entirely different one in Alabama; to have one system of weights and measures in Illinois and another in Mississippi; and to have the above required by Federal law. It would not be right to allow the States for the registration of voters required in only seven States with the other 43 exempt from such requirements. As the law now stands a person registered to vote in a few States would vote in the Federal election in one State, and vote in the State's election in another. The electoral system of Federal law could well be immediately disenfranchised upon moving to New York because he could not pass the literacy requirements of that State. The Ford substitute would make the law apply equally to all the States. Under the 1965 act the officials of the seven States affected are in the position of being guilty until their innocence is proved. The President's proposals, as placed before the House by the distinguished minority leader, would provide a means for appropriate Federal action to combat such corruption all across the Nation.

It is strange that anyone can still believe that problems of Negro rights, discrimination, and segregation are confined to the South in our time. The worst civil disturbances have been non-
Southern cities. Resistance to open housing is apparently as strong in Chicago as in the South. Resistance to school desegregation apparently exists wherever there is a large concentration of nonwhite population. There is ample evidence of discrimination in registration and voting which has existed for years, and which continues, both in employment practices, and in other fields. While not as open and above board as the old segregation laws of the South, widespread discrimination has existed in more subtle and sophisticated ways which have had substantially the same end results.

There is evidence that while five of the seven States covered by the 1965 act would no longer fail to meet the standards of voter registration and participation established by that act, were today the effective date on which the formula was applied, there are ghetto and by counties which could not meet the requirements of the formula should it be applied to the other 43 States. Nor is it to my mind a decisive argument, even if it be true, that the problem of voting rights has been greatest in the South. The problem of organized crime and the Ku Klux Klan is the true test of the administration's decision, and whether or not it will attempt to meet whatever problem might exist in the present or future in my own city or State. When it comes to voting irregularities there are those who allege that there have been difficulties even in the greater parts of the State. This formula provided from this act in spite of some 16 or 17 counties in that State which failed to meet the requirements of the formula in 1965. Voting irregularities have even been alleged to occur within at least one county of the great State of Illinois. I favor law which would combat this evil everywhere and all the time.

Mr. Chairman, we have on Constitution and one Bill of Rights. The Constitution of the people is the great national organic law, and no mere body of legislation can override it or abridge it. The Constitution of the States and of the Nation is the great law, and the States of the Union are not under any State of the Union. The constitutional rights of the people compose the very heart of the Constitution. Congress has the duty of the Congress to work toward the protection of these rights in all 50 of the States. The 15th amendment to the Constitution provides that:

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

It further states that—

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

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

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

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

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

The literacy test ban provision as it now appears in the Voting Rights Act of 1965 applies only where a causation relationship can clearly be shown to exist between use of a test and low nonwhite voter participation. In seven States in the South, such a relationship has been shown; and I believe this situation exists elsewhere. If evidence were to emerge in the future that use of literacy tests and other devices in other States are discriminatory under section 3 of the Voting Rights Act, the Attorney General has the authority to bring suit to enforce the 15th amendment. So a nationwide literacy test ban is essentially unnecessary.

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

Testimony of Clarence Mitchell of the NAACP, and officials of the voter education program in a Regional Council before the House Judiciary Committee clearly indicates that the problem of disenfranchisement of minority groups in the South still has not been solved. The Briggs Jenkins Act of 1965 went a long way in correcting voting discrimination, but a continued concentrated effort is still needed there. If the administration were sincere about ending voting discrimination for Negroes, it would need a great deal of money and manpower to discover the relatively few, minor instances of disenfranchisement outside the seven Southern States. With the Vietnam war and the inflation situation, there is no evidence that this money is available. So the ultimate effect of this provision will be to take the pressure off the South and, through lack of examiner and observer manpower, let it drift back to pre-1965 practices. We cannot let that happen.

The administration provision for a Presidential Commission to study voting discrimination and corrupt voting practices can be quickly dismissed by quoting my distinguished colleague, the gentleman from Ohio (Mr. McCulloch), who asked at the hearings on this bill why the Civil Rights Commission cannot perform the same task at lesser expense? The administration substitute proposes uniform residency requirement for all States. If this is laudatory on the surface and in principle, but I suggest this is not the proper time to consider the question in light of the residency requirement case now pending before the Supreme Court questioning the constitutionality of such State laws. After the case has been decided will be the proper time to consider this important issue separately. It is a concern whether this provision will affect long known State perogatives and its consideration now could also jeopardize the passage of H.R. 4249.

Finally, the most damaging provisions of the administration substitute—the elimination of pre-clearance requirements. This provision would critically weaken the Voting Rights Act by shifting the burden of proof to the Government in evaluating electoral legislation when it is assigned to bar Negro voting in that area. It would mean a return to dependence upon the slow litigation process which has been so ineffective and in the past.

I am led to conclude that the administration substituted the original voting rights legislation, noting that "in the achievement of equal opportunities nothing is more important than the guarantee of the franchise." I feel obligated to oppose any amendment to the Voting Rights Act which would permit this American goal or make it more difficult to achieve.

Mr. GILBERT. Mr. Chairman, I heartily endorse the Judiciary Committee's bill to extend the Voting Rights Act of 1965 by 5 more years. I endorse it because it is right and because it is one of the pieces of legislation enacted during the last administration whose effectiveness has been demonstrated over and over again. In the 6 years since the passage of the 1965 legislation, Negro registration has increased from 877,000 in 1965 to 1.6 million today. In the areas covered by the act, nearly 400 black officials have been elected who, as these figures demonstrate, Mr. Chairman, is that the democratic process has at last been made available to a substantial body of Americans to whom it was so long denied. We cannot ignore that achievement.

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

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

I must take issue, however, with my fellow Judiciary Committee members in
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APPROVING 5-YEAR EXTENSION OF THE VOTING RIGHTS ACT OF 1965. The 1965 Act provided for literacy tests and devices in States and counties where such tests were utilized and where less than 50 percent of the total voting-age population was registered to vote or voted in the preceding election. The effect of that legislation was to restrict the literacy requirements of Mississippi, Louisiana, Alabama, Georgia, South Carolina, Virginia, and 39 counties in North Carolina. Some 13 States, including Connecticut and New York, have utilized literacy tests were exempted because they met the 50-percent requirement. Likewise, States such as Arkansas and Texas that fell short of the 50-percent requirement but had no literacy tests, were exempted. States such as North Carolina, which had an overall average of 51.8 percent but had counties which fell under the 50-percent figure, came under the 1965 Act because it had a literacy requirement, whereas States like Tennessee, where 22 out of 95 counties had less than 50 percent, were exempted due to the absence of a literacy test.

Is discrimination on the basis of literacy more acceptable in Connecticut and New York than it is in Louisiana or South Carolina? Or, as my colleague from Alabama (Mr. Andrews) inquired: If a moron is going to be permitted to vote in Alabama, why shouldn't a moron be permitted to vote in New York?

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

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

I have no quarrel with the statement that I wanted to encourage the exercise of the franchise by as many of our citizens as possible. The Attorney General of the United States in testimony before the House Judiciary Committee, said:

Little more than one-third of the voting-age Negro population cast 1968 ballots in Nashville, Tenn., or Brooklyn, New York City, and this is supposed to only one-half the local white turnout.

These figures are in contrast to the statistics to be made public by the Justice Department. The department is prepared to publish the statistics on voting figures for the new Fifteenth Amendment, which will take effect today, and if we can have the figures it would mean that the Fifteenth Amendment unforeseen today, however well intended it might have appeared in the past.

I suggest to my colleagues that it is unreasonable today to continue to impose such a test in the Southern States. Let every American, including the Puerto Rican in New York and the Negro in the North, enjoy the benefits of the 15th amendment. The substitute bill is designed to deny exclusion fairly to all 50 States of the Nation. It is a question of conscience and reason will prevail over expediency, and that you will support the substitute.

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

At the same time we will be given an opportunity to make the effects of this law felt throughout the length and breadth of the land—not just in the "conquered provinces" of the South. To those who claim that the 1965 law is a "federal aggression," I would like to point out that the Southern States with large numbers of patently unqualified, individuals, who so-called "test act like puppets to the machinations of the left." If the so-called Voting Rights Act was passed.

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

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

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

I Insert Father Heffburg's appeal to morality at this point in my remarks, reminding our colleagues that this is the same gentleman who, as president of Notre Dame University, was appointed to its board for the supervision of the education of our young people, a convicted sex pervert, a convicted felon, a convicted moron, and an admitted one-time Communist who still travels with the same comrades:

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

Hon. JOHN R. RARICK, House of Representatives, Washington, D.C.

To Mr. RARICK: This week the House of Representatives voted to extend the beginning of the Voting Rights Act of 1965 for another five years. The Commission on Civil Rights has an opportunity to extend the extension of the Voting Rights Act with all of its protective provisions intact. The Administration's substitute is a much weaker bill. It is the judgment of the Commission that general electoral reforms should not be tied with the extension of the Voting Rights Act because the effect would be to confuse and undermine the Fifteenth Amendment rights with general reforms based on politics, not on enforcement.

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

The Members of Congress of both parties who voted yesterday and who voted yesterday correctly with pride and with the approval of the Members of Congress of both parties who voted yesterday and who voted yesterday correctly with pride and with the approval of their constituents and their constituents and the people of the people of the country.

Sincerely yours,

THEODORE N. HEFFBURGH,
Chairman.

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

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

About 12 percent of the registered voters bothered to vote. Only about half
of the supposedly eligible voters in the District have bothered to register. This means that about one percent of the millions of citizens eligible in the only election for local officials took the trouble to vote.

But total disaster overtook the theorists when it turned out that of those who registered, many did not vote. We can only guess what can be the explanation for an election, under total Federal supervision, in the Nation’s Capital, where the population some 80 percent Negro, and less than 2 percent of the eligible nonwhites voted? How much more federally supervised can you get?

The chairman of the District of Columbia Democratic Central Committee, an experienced attorney from the Department of Justice, has concrete recommendations to correct this situation. He recommends lowering the voting age to 18, providing free television and radio time for candidates, and income tax credits for political contributions—but nothing that requires Federal watchdogs to assure that everyone eligible to vote does vote whether he wants to or not.

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

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

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

DEMOCRATS PROPOSE VOTING LAW CHANGES

(By Paul Hodge)

The D.C. Democratic Central Committee last night recommended wide-ranging revisions in Washington’s election laws. The committee’s proposals include free television and radio time for school board candidates, tax credits of “perhaps $10” for political contributions and lowering of the voting age to 18.

The proposals stem from what Committee Chairman Bruce Terris called a “disastrous” school election which covered only 2 percent of the registered voters cast ballots. The board of election already has called for suggestions on how to increase participation in the city’s only local election.

Only 25,000 voted Nov. 4 out of some 200,000 registered voters. There are about 650,000 to 690,000 in the District eligible to vote, the elections board estimates.

Terris said the Nov. 4 election was “tragic, because about 70 percent of those voting were Negroes, where 90 percent of the children are black.”

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

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

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

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

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

I intend to cast my vote to make this measure equally applicable to all citizens of the United States. I do so in the hope that it will dissuade the threat of Federal intervention in the local election machinery in all parts of the country which will alert Members to this act’s nauseating suppression of basic rights. The destruction of the local franchise has always been the first act of the totalitarianist.

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

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

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

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

In passing the Voting Rights Act of 1965, Congress bypassed the judicial approach and abolished the very criteria by which local registration officials nullified the efficacy of court orders. It did this by suspending literacy tests and devices as conditions for voter registration in States which have under section 4(b) of the Voting Rights Act been found guilty of engaging in any pattern or practice of discriminating voting laws and practices. By doing this, Congress added to the list of communities which have been proven to be in violation of the 15th amendment, the federal government.

The Voting Rights Act of 1965 has proven tremendously effective. Since its enactment, approximately 800,000 Negro citizens have become registered voters in Alabama, Georgia, Louisiana, Mississippi, and South Carolina. Prior to passage of the act, 29 percent of age-eligible Negroes in these States were registered; 52 percent have been registered since. According to the Southern Regional Council there were 70 Negro elected officials in the South in 1965 shortly after passage of the Voting Rights Act. Today there are 475. Negroes in the South have reason to hope that they can make their presence felt in the democratic political process.

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

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

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

Suspension of literacy tests in Connecticut might not even be the case in Mississippi. Mitchell’s elimination of the requirement that presently covered States submit new voting laws for prior Federal approval before putting them into effect would certainly endanger voting rights throughout the South. The Senate’s Mitchell substitute replaces this requirement with authorization for the Attorney General to ask the Federal courts to enjoin the application of new voting laws designed to prevent Negroes from voting or to lessen their voting power or to prevent Negro candidates from getting into office and the Attorney General could not immediately suspend the laws. But if Mitchell is right, which he says is right, and there is no racial discrimination, the Senate substitute amendment would thus replace administrative enforcement which is the only kind of approach which has successfully protected voting rights with judicial enforcement which was the approach of the civil rights acts prior to 1965 and which failed.

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

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

In areas where registration has increased, we have moved into a new phase of the problem. Political boundaries have been changed in an effort to dilute the newly gained voting strength of Negroes. Various devices have been used to prevent Negroes from becoming candidates for elective office. The Commission has observed again against Negro registrants at the polls and discriminatory practices ranging from the exclusion of Negroes to the robbery of their registration cards. The Commission has observed, in the selection of election officials to vote fraud—have been based which violate the integrity of the election process.

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

The issue is this, Mr. Chairman: Will Congress continue to give effective protection of voting rights or will it permit abridgment of the democratic process? Current polarizing tendencies in our country have led to the adoption of a limited Federal protection of voting rights.

Mr. CONEY'S. Mr. Chairman, history is watching us. History will deliberate on our actions today, and when this era has passed and our history is written down, history will render judgment on this Congress and what it has done. And history is an empirical, unemotional and philosophical discipline. Yet today, many of these same gentlemen are seemingly supporting that very move. Their new found free thinking on this matter is extremely interesting.

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

The principal additional base for the Voting Rights Act is the 15th amendment. Therefore, separate legislation is required to properly legislate against literacy tests on a nationwide basis. In that amendment, Congress has used the word “literacy” which has been interpreted by various Federal judges. Among those who have introduced a separate piece of legislation, H.R. 15146, to abolish these tests nationwide. But the careful deliberation we must give to any such legislative action must not obscure or obstruct the extension of the Voting Rights Act. And that is exactly what is being done today. The debate on literacy tests is designed to throw into the Federal courts the question of differences in the alternatives we are considering. Under the present Voting Rights Act, the U.S. Attorney General may direct the U.S. Civil Service Commission to prepare a list of eligible voters if he has received 20 meritorious written complaints alleging voter discrimination. This power is eliminated in the administration substitute. There would be no procedure for administrative appointment. The Attorney General would have to petition in court for the appointment of examiners. What kind of effective remedy would be thus disposed of? Fraudulent election procedures can be given years after the fact? In the absence of examiners, what process on the local level will give the Attorney General “reason to believe” racially discriminatory voting practices have been enacted or are being practiced? The reliance on appointed examiners is a return to the ineffective, arduous procedures in effect prior to the passage of the 1965 Civil Rights Act and is a procedure already found wanting.

The third difference of major consequence between the present and proposed measures is the elimination of section 5 of the 1965 Voting Rights Act. This section required the submission of changes in voting rules and procedures to the administration substitute. The States covered by the present act would not have been required to first obtain the approval of the Attorney General or a declaratory judgment from the District Court of the District of Columbia before implementing new voting qualifications or procedures. The burden of proof for the needed reform would thus fall on the Attorney General. This would force a return to the case-by-case, county-by-county approach through the courts which has proved so slow and inadequate in the past.

What is the net effect of these differences? If accepted, the administration substitute, most obviously, would be a clear impediment to the enforcement of our constitutionally guaranteed right to vote, and would obstruct access to the ballot for those millions of Americans who are still disenfranchised. To support such a move, my colleagues must believe that the courts and the public will that required our action in 1965 has been removed. You must believe there is no longer any injustice to correct. You must believe that Southern public officials will not make every effort to disenfranchise those black people already on the voting rolls and to hinder in every way those still attempting to become listed. This is the most important question to consider in this entire debate: Do you believe there is no racially motivated voter discrimination now being practiced and that there is nothing that the Federal government or Southern public officials to practice or support such discrimination? In short, is full voter equality a reality? This question cannot pose an abstract or technical one. The evidence is overwhelming. Can the South, in 4 years, have so clearly reversed the effect of their 100-year history of voter discrimination and racial injustice? If this be fact, then there is every justification for not extending the Voting Rights Act in its present form. All could agree on the administration substitute. But practices so institutionalized, so built in throughout the South and pervasive in a society, do not vanish that easily, even though we wish that they could.

We must look at the facts, regard the evidence. Even under present procedures, 18 of 185 counties where less than 50 percent of the eligible black Americans have been registered to vote. In the entire State of Alabama the percentage is only slightly above a majority, 51 percent; in Georgia, 52 percent; in South Carolina, 51.2 percent. In Mississippi, the percentage is 58.8 percent; in Louisiana, it is 58.9 percent; and in Virginia, it is 55.6 percent. In
the 6½ States covered by the 1965 act, only 57 percent of the black voting-age population is registered. This must be compared to the 79 percent of the white voting-age population that is registered, a difference of 22 percent. Federal examiners may not be required in 58 of the 517 counties in all the 6½ States covered by the present law.

Since these are the figures presently, there can be little confidence in the future if the Voting Rights Act is not extended. Equality will be further impeded by the 3 percent loss. I do not believe we have gone far enough. At least 2 million black Americans remain who are not allowed to exercise their right to vote. Many more who do vote suffer harassment and intimidation. In my judgment, the Voting Rights Act must not only be extended, but strengthened. It should be made more effective, not less. The enforcement provisions should be made more automatic. As a result of the recent court decision, it depends too much on the discretion of the Attorney General. The Voting Rights Act should allow door-to-door registration and class-action litigation. It should be strengthened to the extent that all black, black as well as white, are truly guaranteed their right to freely cast a secret ballot in any and all elections. Partial democracy is no democracy at all.

But there are those in this body who are saying that enough progress has been made. My colleague from Michigan (Mr. GERALD R. FORD) is the sponsor of the administrative substitute. He says that black people have been included in the southern political process to such a great extent that the States are in the process of reversing the trend. Let me remind Mr. Ford that there is only one black legislator in Louisiana. There is only one black legislator in Mississippi. There is only one black legislator in North Carolina. There is only one black legislator in Virginia. There are none in Alabama or South Carolina.

The argument from the gentleman from Michigan cannot be considered serious or genuine. For example, the Georgia State Legislature is now attempting to merge the city of Atlanta into the surrounding Fulton County and thereby severely curtail the ballot power of the black citizens of that city. These voters recently reversed the political order of the last generation by electing a liberal white mayor and a liberal, black vice mayor. This recent political event shows that abolition of the political order is only an oblique change in voting procedure.

The democratic process in the South is well described by the former Assistant Attorney General in charge of the Civil Rights Division, Mr. Burke Marshall. He has said:

When the will to keep Negro registration to a minimum is strong, and the routine of determining whose applications are acceptable is left to the discretion of local officials, the latitude for discrimination is almost endless. The practices that can be used are virtually infinite.

The most obvious tactic that will be used is requiring reregistration of all voters. Then all manner of contrived and hypocritical efforts will be made to pre-
Mr. GERALD R. FORD (reading the record). Chairman, I ask unanimous consent that the further reading of the amendment in the nature of a substitute be dispensed with and that it be printed in the Record.

Mr. CELLER. Mr. Chairman, is the substitute amendment identical to the bill, H.R. 12695?

Mr. GERALD R. FORD. The answer is in the affirmative.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan to dispense with the further reading of the amendment.

There was no objection.

Mr. GERALD R. FORD. Mr. Chairman, at the outset let me read for the benefit of the Members a letter which I received yesterday from the President of the United States.


Hon. Gerald R. Ford,
Minority Leader of the U.S. House of Representatives, Washington, D.C.

Dear Jerry: I am aware that the House is considering a five-year extension of the Voting Rights Act of 1965. Similarly, as an amendment, the Administration-proposed nationwide voting rights bill, H.R. 12695, I strongly believe that the nationwide bill is superior because it is more comprehensive and equitable. Therefore, I believe every effort must be made to see that its essence, at least, prevails.

I would stress two critical points:

1. Instead of simply extending until 1975 the present Voting Rights Act, which bars literacy tests in only seven states, as the Committee amendment to the Committee bill would apply to all states until January 1, 1974. It would extend protection to millions of citizens not now covered and not covered under the Committee bill.

2. H.R. 12695 assures that otherwise qualified voters would not be denied the right to vote for President merely because they changed their state of residence shortly before a national election.

In short, the nationwide bill would go a long way toward insuring a vote for all our citizens in every state. Under it those millions who have been veteled in the past would have the legal tools they need to obtain and secure the franchise. Justice requires no less.

For certainly an enlightened national legislature must admit that Justice is diminished for any citizen who does not have the right to vote for those who govern him. There is no way for the disenfranchised to consider themselves equal partners in our society.

This is true regardless of state or geographical location.

I urge that this message be brought to your colleagues, and I hope that we will join in our efforts to grant equal voting rights to all citizens of the United States.

Sincerely,

RICHARD NIXON.

Mr. Chairman, I would like to make three basic points. Section 1 of the 15th amendment to the Constitution reads as follows:

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

In my humble opinion, Mr. Chairman, the Nationwide Voting Act would achieve that result far more effectively than the existing law which is proposed for extension. Let me take one illustration. Under the existing law and sections (a) and (4(b) seven States are under what is called the triggering device. Those seven States have automatically, in effect, examiners to register prospective voters and observers to make certain that the voting is carried out in accordance with the law. Those seven States, even after they have met the criteria established in the 1964 election, have the same emus to bear the onus of the burden of those seven States have met the criteria of the 1965 act predicated on the presidential election of 1964.

Under the existing law and that which is proposed to be extended by the committee, 12 other States that still have a literacy test are not faced with that burden. A total of 43 States in effect are not faced with that burden of having automatic Federal examiners and Federal observers sent in to check on local officials.

I think that is unfair. I think that is inequitable.

Let us take a look at the proposed nationwide bill. Under this proposal, if, in offering the amendment, the Attorney General can send to any local jurisdiction, to any State, Federal examiners to help in the registration or observation will be made. And I hope that will be positive that the election is carried out fairly and equitably for every citizen.

In my honest opinion it is unfair and unjust under the 15th amendment to States, and particularly the five States which have met the criteria that were established in the 1965 act.

Another concept that is dear, I think, to all Americans is the presumption of innocence. A person in our society is innocent until proven guilty. It seems to me if a person is innocent until proven guilty, then a State ought to be innocent until proven guilty. The nationwide bill seven States are presumed guilty until they prove their innocence. Those seven States in good faith have participated in the registration of approximately millions of voters and particularly the five States which have met the criteria that were established in the 1965 act. Yet they still have the burden of proof and they are still considered to be guilty.

Let me make this analogy if may. Take a track meet, a high jump. The track officials establish a 6-foot height and say that if contestants jump 6 feet, they have made it. The person who jumps 6 feet in good conscience under the rules established ought to be given credit for qualifying.

Under the existing law and the proposed section amendment to the committee, five of the seven States which have done what the Congress told them to do are still considered unqualified. They still have to prove their innocence, contrary to any well-chosen concept I know of in this country.

The nationwide bill says that the Attorney General can move in when he has evidence, and he can go against any local jurisdiction or any State, but the Attorney General has the burden of proof
to establish that for sure if the jurisdiction, whether it is local or State, is denying or abridging the right to vote. In other words, under our bill we use the basic concept that a person or a political subdivision or a State is innocent until proved guilty.

The third point is retrogression. I have heard some people say, "If we do not pass the existing law there will be retrogression, backsliding." If you take the most influential power against backsliding is the fact that 1 million people in this region have been registered to vote over the past 4 years. That is people power—people power, and one of us in this Chamber understands people power. If we do not, we had better.

The people who have been registered will not permit backsliding.

Let me make this point: even if there were that danger or that threat—which I do not think there is—the Attorney General has power and authority under the bill I have offered as an amendment to go into any local jurisdiction, any State, and prevent the authorities in either case from taking action that would permit or result in backsliding.

So we have people power on the one hand and the power of the U.S. Attorney General on the other. He has the authority to move in to take affirmative action to prevent by injunctive relief any change in precinct lines, change in registration laws, to make sure the votes are counted. The Attorney General has plenty of power to prevent backsliding.

Furthermore, the Attorney General has a pretty accurate poll.

Every 4 years in a real national election he can determine by how many people vote in any precinct or any State, whether or not the criteria of the 1965 act have been violated.

Let me make one other observation. Under our bill there is the provision which would establish a nationwide residency requirement so that individuals in our society who, for one reason or another, move from one State to another do not lose their right to vote for President of the United States. An increase in a mobile society such as that in which we live ought not to be penalized for actions he must undertake beyond his control. He ought to be able to vote for the President of the United States, whether he moves from Michigan to California or Florida to Alaska. He should not be precluded and prevented from exercising the franchise.

There is a committee bill did not recognize that absolute need and necessity.

Yes, Mr. Chairman, for the reasons I have given and others that have been stated during the course of this debate, I strongly hope that the amendment in the form of a substitute, for the nationwide voting rights bill, is approved.

Mr. CELLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. CHAIRMAN. Mr. Celler is in agreement with a great deal of interest to the statement of the distinguished minority leader that 4 years is enough to bring about a remedy as far as disenfranchisement of certain minorities is concerned. Just think of it. Four years, after a century of repression.

Four years, after a century of disenfranchisement, is 4 years enough? I question that, indeed. That is a case of extreme foolish optimism. Four years is not enough. We have sufficient proof to indicate that.

The commission on Civil Rights says that despite the progress, however, it is clear that we are still a long way from the goal of full enfranchisement of Negro citizens.

As this report discloses many problems remain in securing to the Negroes of the South the opportunity to participate equally with white citizens in voting and political activity. There remain areas where the Chamber of Negroes registered to vote is disproportionately low. Some Negroes are still discouraged by past discrimination. Many reside in counties and parishes which have not been designated for Federal examiners. In areas where there have been registrars registration has increased and that we have moved into a new phase of voting discrimination. Political boundaries have been changed in an effort to dilute the newly enlarged Negro vote and other devices have been adopted.

There are various subtle and disingenuous methods used to continue to disenfranchise Negroes.

So, Mr. Chairman, work remains to be done. If you take away the so-called trigger which is the real result of the substitute—and I do not believe it is the voice of "Gerald" but the hand of "John", that is that in case-by-case.

There is more in it than meets the eye. It is purely political. Let us not forget that. Those who are now voting for this substitute in the main, voted for the act of 1965. Now there is suddenly a change of heart because there is a sudden change in the political atmosphere.

Mr. THOMPSON of Georgia. Mr. Chairman, will the gentleman yield?

Mr. CELLER. Yes, I yield to the gentleman.

Mr. THOMPSON of Georgia. Is the gentleman aware of the fact that the Attorney General testified at the hearings that there is a higher percentage ratio of Negroes registered in the South than the gentleman's own State of New York?

Mr. CELLER. I asked the Attorney General that, to give me proof as to whether or not there was a single case in my own State where a Negro was denied the right to vote by的颜色 or color. He could not give me one single example. He presented no record at all with reference to voting discrimination in the State of New York, as far as Negroes are concerned.

Mr. THOMPSON of Georgia. Perhaps the gentleman from New York misunderstood my question.

Mr. CELLER. We encourage the Negro vote to the extent that we have a district with a Negro as the Congressman. That is the way we operate. We do not have Negroes. We have white people. We have a Negro Congressman. That is the way we operate.

Mr. THOMPSON of Georgia. Mr. No, but I was talking about—

Mr. CELLER. We call that respect for who?

Mr. THOMPSON of Georgia. Mr. Chairman, will the gentleman yield?

Mr. CELLER. Just a minute. You asked for a word and you are going to get it.

The CHAIRMAN. The gentleman from New York has expired.

(By unanimous consent, Mr. CELLER was allowed to proceed for 5 additional minutes.)

Mr. CELLER. In addition thereto, there is a Puerto Rican president of the Borough of Bronx. There are more Puerto Ricans in the Borough of Bronx than there are in San Juan. If you think there is evidence of discrimination against Puerto Ricans in the city of New York, in view of the election of a Puerto Rican? We encourage the Puerto Rican who we encourage the Negro vote.

Mr. THOMPSON of Georgia. Mr. Chairman, if the gentleman will yield, I would like for the gentleman to answer my question.

Mr. CELLER. In my own district, I have a great many Negroes, and I do all and sundry things to encourage registration and voting, as do all my colleagues of the New York delegation.

Mr. THOMPSON of Georgia. Mr. Chairman will the gentleman yield in order that I may get an answer to my question? I am afraid the gentleman has got off on a tangent.

The CHAIRMAN. Will the gentleman from New York yield to the gentleman from Georgia?

The gentleman refuses to yield at this time.

Mr. CELLER. Mr. Chairman, the gentleman from Michigan spoke about burden of proof. Let me tell you about burden of proof, and let me quote from a Supreme Court decision, given the history in some States of repression of any attempts by black people to gain political power, and the greater familiarity of the State with the purpose and effect of its legislation the burden of proof should be on the States "covered" by the

As the Supreme Court observed:

After enduring nearly a century of widespread resistance to the 15th Amendment, Congress has marshaled an army of potent weapons against any attempt in the Attorney General to employ effectively South Carolina v. Katzenbach 383 U.S. 301 (1966).

Thus, the burden is where it belongs. It is impossible for an Attorney General to keep abreast of each and every election law change. The States and counties involved are in the best position to explain their laws. If they are changing their statutes or laws with reference to voting, they must inform us, and submit them for Federal review before the laws can be enforced. That is where the burden should lie and the burden must continue to lie. It would be disastors the Voting Rights Act of 1965 if we repeal that requirement. We would then have a situation of case-by-case litigation.

The record of the past shows it is almost impossible for the Attorney General to instill effective remedies to end voting discrimination by proceeding case by case; it is a slow, slow's process. One case took 4 years to develop, and meanwhile there were any number of elections. The verdict was in favor of the petitioner after 4 years. What good was
the judgment after the elections were over? Once an election has paused, interference with the right to vote is irremediable. The case-by-case approach would still be an amendment covered by the act. It encountered delay and insensitivity. The progress it yielded was minuscule. To abandon the automatic remedies of the act, in favor of court litigation, to engage the inadequate protections of the past, and jeopardize the gains in voter registration thus far achieved. I again say that I believe that the substitute should not be approved by the chamber.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. ANDERSON of Illinois. Mr. Chairman, I move to strike the last word.

(By unanimous consent, Mr. Anderson of Illinois was allowed to proceed for an additional 5 minutes.)

Mr. ANDERSON of Illinois. Mr. Chairman, I do not lightly embark upon a course which places me in conflict with the gentleman from Michigan who addressed the House a few minutes ago, but I believe that there are overwhelming causes in this case that make that position, unenviable as it may be, the only course which I in good conscience can follow.

We have heard it explained that the so-called Nationwide Voting Act would more effectively implement the guarantees of the 15th Amendment than would the extension of the present act. This despite the overwhelming evidence in the record before us that more than 1 million people have been added to the rolls in a short period since the enactment of this statute in 1965.

I pointed out when I had a few minutes yesterday that we run a grave constitutional risk of the invalidation of this entire statute under the decision in the Lassiter case.

There has been another point made that a State ought to be presumed innocent and not guilty, but again the fact of the matter is that the record is overwhelming that the issue in the case behind the enactment of this statute in 1965 was that for historical reasons, for cultural and educational reasons, we were trying to rifle in on those areas where the problem was the greatest.

And I ask you what is the purpose of section 5—which I agree with the gentleman from California is the very heart and soul of this statute? The purpose of section 5 is not to punish; it is to deter. It is to make justice upon those who would use sophisticated methods, who would, by the adoption of various strategies seek to change voter practices and procedures either by altering boundary lines, by abridging the election districts, by changing election to selection, and by changing filing fees—and you could go on and on—it is to deter.

The whole purpose of section 5 is to deter the illegal conduct—not to punish. If their hands are in fact clean—if they come before the Attorney General—the present Attorney General of the United States, with clean hands, with no legitimate basis for changed districts, for changing election to selection, and by changing filing fees—and you could go on and on—it is to deter.

I have every reason to believe—I have every confidence that the Attorney General will grant the proposed change and that there will not even be the necessity to go before the District Court here in the District of Columbia to ratify that particular change.

I think the fact remains that the testimony which was adduced at the hearings—I think if my memory serves me correctly there were days and days of hearings when this statute was enacted in 1965. I think there were 67 witnesses in the bill was debated for 3 full days here on the floor of this House and I think for 26 days in the other Chamber. If you read the record of those debates and if you read the record of the hearings, I think the evidence is there as to why we took this action.

Again I repeat—it was not to punish and not to single out with opprobrium and plume. Good reason that what is as of this country—but rather to try to guarantee to every citizen that precious right that we all enjoy—the right to choose and the right to vote to the maximum extent in their particular areas.

In the decision that the Supreme Court made, which affirmed the constitutionality of this statute, the Court said, and I am quoting:

"Voting suits are unusually onerous to prepare. Suits like this take much more than 6,000 man hours that must be spent combing through registration records, in preparation for control, and litigation has been exceedingly slow in part because of ample opportunities to delay afforded voting officials and others involved in these cases."

Mr. Chairman, it was to get away from that kind of case by case method of adjudication that were not effective under the 1957, 1960 and 1964 acts that we adopted the voting rights act of 1965.

We have some people, I think, in this Chamber who are suffering from a gander complex. Good reason that what is as of the goose must be sauce for the gander. They say if this statute is so good, let us extend it nationwide.

Well, again, quite aside from the constitutional problems that that point of view raises, I think there is something so very strange about trying to rifle in on a particular problem by acting in a simple, rational manner.

I remember when we passed the economic development act. I remember when we passed the area redevelopment administration act.

What did we do there? We used an unemployment factor. We used that as a trigger in an effort to pinpoint the impact of this legislation in those areas of the country where the need was the greatest.

I believe, Mr. Chairman, that is all we are trying to do in asking for the extension of the present act—and that is to focus on those areas where the need is the greatest.

This Chamber has resounded, and will resound I suppose for some hours yet, about those feelings of wounded State pride. Some even say that what we seek to do does violence to the very concept of federalism.

I would offer simply this thought in conclusion. It is the cries of wounded State pride, I think on the other side of the scales of Justice we ought to place in the balance perhaps the rights of people—the rights of people to exercise what the Congress and the Constitution gave them a century ago in the 15th amendment.

I think if justice is truly that blindfolded Goddess that she is portrayed to be, then I think that in our hearts we will have to admit that the equities lie with those who want to see us complete a job that this Congress began in 1965. The man from Michigan who put this matter in quite a different perspective and who believe that the paramount issue before this Chamber is the question of equality among the States.

It seems to me there is a larger and an even more important question that confronts us—and that is that we try to do those things which will assure equality among the citizens of each and every State. To me that is far more important than even the question of the sovereign equality of the several States.

The chairman, I think, who comes from Illinois who is in charge of the substitute amendment is defeated.

I must now yield to my colleague, the gentleman from New York (Mr. Fishe) to whom I had earlier promised I would yield.

Mr. FISHER. Mr. Chairman, I congratulate the gentleman in the well and associate myself with his remarks as one of the original sponsors of the committee bill.

Mr. Chairman, there is little to add to the statement of the gentleman from Illinois (Mr. Anderson). I find it fitting to quote this passage from the Gentleman from Michigan who is speaking this evening—this statement of the Illinois Republican from Illinois reminds us that we still stand in the tradition of Lincoln.

The Voting Rights Act of 1965 has worked. There has been a significant increase in the number of Negro citizens registered, voting, and running for office. But full equality is far from a reality, and Federal protection is still needed. A dilution of the simple extant that the 1965 act would represent a retreat.

The evidence of continued efforts to frustrate Negro registration indicates that we cannot expect much of a Federal extension of the existing legislation. I cannot accept legislation which dilutes the main thrust of the 1965 act, the present sections 4 and 5. It is interesting to note, Mr. Chairman, that the original legislation drafted in 1965 calls for a 10-year lifetime, and that this period was reduced to 5 years solely to gain a political compromise to break the filibuster against the bill in the other Chamber.

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

Mr. ANDERSON of Illinois. I yield to the gentleman from Louisiana.

Mr. SMITH of Louisiana. Mr. Chairman, I am almost persuaded now to ask two questions, since I heard the gentleman's concluding statements, but I will ask the last question first in case we do not have time for the first.

Mr. Chairman, will the gentleman tell me how he can reconcile his closing statement and provide equality for all citizens. If we do not provide equality for the States, how can we provide equality for the people in the States if the States themselves are not treated equally?
Mr. ANDERSON of Illinois. Because, my friend, the counties in the several States are not in the States, but the sovereignty resides in the people. What we are trying to do in this legislation is to make sure that sovereignty will be exercised fairly and without any reference to color or race or any condition of servitude. That is all we seek to do.

Mr. RODINO. Mr. Chairman, I rise in opposition to the proposed amendment which incorporates the administration's alternative to the single extension of the Voting Rights Act of 1965. I urge rejection of this amendment because I believe it proposes remedies for wrongs which have not been established. Many of its complex provisions are of doubtful constitutionality. Most importantly, it is an inadequate, regressive alternative to the Voting Rights Act of 1965.

The substitute eliminates the trigger formula of the Voting Rights Act and in its place proposes a 4-year nationwide ban on literacy tests. Unlike the present act, it does not give the States an opportunity to establish that their tests are not discriminatory. This fact, coupled with the lack of any evidence or complaint of discriminatory use of such tests, renders the constitutionality of the entire proposal highly dubious.

The administration's proposal substitutes the automatic administrative remedies of the act. It scraps the requirement that new voting laws or new election practices require Federal review before they may be implemented. The administration's alternative would be to authorize suits by the Attorney General to challenge discriminatory voting practices. The Attorney General already possesses such authority. The amendment is a redundancy; it is superfluous.

It cuts out from the Voting Rights Act a remedy which may make all the difference in the next few years as to whether or not many States will thus far realized will remain secure. It is a return to the case-by-case, county-by-county litigation approach which gave rise to the Voting Rights Act in the first place.

To those who attack the Voting Rights Act as a "Jim Crow Act," I say: Before the fear characterized voting and efforts to vote throughout the Nation, or has it been focused in certain regions? Has segregation in travel, recreation, education, and hospital care, as well as voting, been embodied in statutes and ordinances in areas where the formula of the Act does not apply? Of course not. We must not apologize because certain remedies in this Act focus on certain regions of the country.

Let our memories be too short, it may be appropriate to recall a few words from a Supreme Court decision in 1965 in United States v. Louisiana.

As the evidence showed, colored people, even some with the most advanced education and scholarship, were declared by voting registrars with less education to have an unsatisfactory "literacy" status. It has been used to discriminate against the constitution of the States of Louisiana or of the United States. This is not a test but a trap, sufficient to stop even a sign on the street in the voting booth. The cherished right of people in a country like ours to vote cannot be obliterated by the use of this like, which leaves the voting fate of a citizen to the passing whim or impulse of an individual registrar. Many of our cases have pointed out the invalidity of such laws completely devoid of standards and restraints.

The administration proposal assumes that a test is discriminatory. There is no longer needed. Instead of focusing on those areas where the public policy and tradition had fostered voting discrimination, the substitute applies the remedies across the board without a prior judicial proceeding. But can we now automatically interfere with the rights of all States to set voter qualifications? No evidence, no record of complaints of voter discrimination have been offered. When the Administrative Office of the Attorney General appointed Federal examiners to register voters in Portland, Maine, Seattle, Wash., or Fresno, Cal., without any evidence at all of voting discrimination?

How can we constitutionally ban literacy tests in New Hampshire, Oregon, or Wyoming without any evidence or complaints of discrimination due to literacy tests?

Other provisions of the administration proposal authorize special voter surveying and create a presidential commission on voting. These provisions are entirely superfluous and duplicate existing law. Other provisions which would establish criteria for determining the qualifications for voting in presidential elections also affect absentee voting and registration requirements under State law. They pose complicated questions of practical application and raise serious doubts as to their constitutionality.

For all these reasons and particularly because the proposed amendment would jeopardize the progress we have thus far achieved in opening voter rolls to all, irrespective of race or color, I must express my full and complete opposition to it. I urge my colleagues to reject the amendment.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

Amendment offered by Mr. Dennis to the substitute amendment offered by Mr. Gerald R. Ford

Mr. DENNIS. Mr. Chairman, I offer an amendment to the substitute offered by the gentleman from Michigan (Mr. Gerald R. Ford).

The Clerk read as follows:

Amendment offered by Mr. Dennis to the substitute amendment offered by Mr. Gerald R. Ford: Page 1, line 7, strike out the words "and substitute the following", and strike out lines 8, 9, and 10 in their entirety. Page 2, line 2, strike out the figure "(2)".

Mr. DENNIS. Mr. Chairman, this amendment does just one thing. It strikes from the substitute the following language:

... On January 1, 1974, no citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device ...

In other words, it removes from the administration bill the nationwide susceptibility of the States. It otherwise leaves the substitute administration proposal exactly as it now is.

I support the substitute. I have already indicated to the Committee in my previous remarks that I much prefer its approach, or proceeding through the courts having the Attorney General required to propose a substitute bill and treating all of the country alike, in the traditional way that the substitute does, to the drastic remedies of sections 4 and 5 of the 1965 Act, which the committee bill seeks.

But the substitute is not perfect, and I want to improve it. The main reason I want to take out this nationwide prohibition of literacy tests is not so much because I believe in the test, although, if it is fairly administered, it is a good case one can make for it, but because I believe it is very plainly unconstitutional to try to say to the several States of the Union that they cannot prescribe such a test if they want to, assuming that they do not apply it in any discriminatory manner.

The reason why I say that is not just off the cuff as a lawyer but because the Supreme Court of the United States has declared the test as unconstitutional, in the case of Lassiter v. Northampton County Board of Election, 360 U.S. 45. They had that very question before the Court.

The Court pointed out, Mr. Chairman, that the several States have wide jurisdiction as to proper voting qualifications such as residence, age, and so on, which they can properly prescribe for voting laws if they are applied equally to all citizens alike. The Court said this in a case where there was a challenge to a literacy test where no discrimination was shown.

The Court said the following:

... The ability to read and write likewise has some relation to standards designed to promote intelligent use of the ballot. Literacy and illiteracy are neutral on race, creed, color, and sex, as reports around the world show. Literacy and intelligence are obviously not synonymous. Literate people may be intelligent voters. Yet in our society where newspapers, radio, and television have provided a matter canvas and debate on issues, a State might conclude that only those who are literate should exercise the franchise of a literacy test. Both of these may be employed to perpetuate that discrimination which the 15th Amendment was designed to uproot. No such influence is charged in this case.

The present requirement, applicable to members of all races, is that the prospective voter "be able to read and write any section of the Constitution of North Carolina in the English language." That seems to us to be one fair way of determining whether a person is literate, not a calculated scheme to prey spring for the citizen. Certainly we cannot condemn it on its face ...

They upheld the State law and so far as I know that is still the law.

Mr. ROGERS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Colorado.

Mr. ROGERS of Colorado. Do I understand that the decision to which the gentleman has referred is the Lassiter decision which, in effect, said that the State of North Carolina had upheld a literacy test? That was in 1960 and that decision has not been set aside in subsequent decisions.

Mr. DENNIS. As the gentleman knows we have the Katzenbach decision and the
Gaston County decision but neither of them overrule that case.

Mr. ROGERS of Colorado. Mr. Chairman, if the gentleman will yield further, I believe that the bill and the amendment were based on the Voting Rights Act of 1965 where in section 2 thereof it was provided that there shall not be imposed or applied by any State or political subdivision any act to deny or abridge the right of any citizen of the United States to vote on account of race or color.

Mr. DENNIS. The gentleman is correct.

Mr. ROGERS of Colorado. The basis for the Voting Rights Act of 1965 was on race and color and that is what the gentleman's amendment deals with, that if there is discrimination because of race or color as provided in section 2, your amendment will eliminate the onerous features at least of this section of the Voting Rights Act, the one limiting this bill and its extension and the substitute to race and color; that is, if there is no discrimination. But the literacy tests by the State would still stand.

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

Mr. ANDREWS of Alabama. Mr. Chairman, I ask unanimous consent that the gentleman may proceed for 5 additional minutes.

Mr. THOMPSON of Georgia. Mr. Chairman, reserving the right to the object, I know there are many people that do want to be heard. I have been here since 10 o'clock this morning and have not been given time. I would like assurance from the Chairman and Mr. Chairman, I ask unanimous consent that there will be no effort to cut off debate at a later time if we do have these extensions.

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

Mr. THOMPSON of Georgia. Yes, I yield to the gentleman from New York.

Mr. Celler. I cannot give any assurance that debate will or will not be cut off, but I assume that the exigencies as they arise. The gentleman would not want me to do that.

Mr. THOMPSON of Georgia. I was wondering if the chairman himself would offer some limitation of debate and I do not know what situation will develop. Let us wait and see.

Mr. THOMPSON of Georgia. Mr. Chairman, I object.

Mr. ROGERS of Colorado. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to H.R. 12695 and I yield to the gentleman from Indiana in order that he may proceed.

Mr. DENNIS. Mr. Chairman, I shall not take the 5 additional minutes, but what I want to say to the gentleman from Colorado and to the Committee is that what I am saying is that a literacy test as such is not a valid test and if it is fairly administered, is not unconstitutional, and the Court has so held. Therefore, I think the part I am trying to take out of the substitute bill is an unconstitutional part and that is why I am trying to get it out.

If we succeed in doing that and the Ford amendment should pass, then the suspension of literacy tests will not exist anywhere in the country. But I would call the attention of this body to the fact that you still have section 3 of the act of 1965, which provides that when the Attorney General gets a decree to enjoin an act, part of that decree, the Court can suspend literacy tests in the decree if the court sees fit. That seems to me to be a proper way to operate.

What I am saying to you is that by supporting this amendment you get a cleaner voting rights enforcement enactment, by proceeding in a proper and reasonable way to enforce voting rights without load, without burden, without extraneous, and, as I believe, unconstitutional provisions.

Mr. ROGERS of Colorado. Mr. Chairman, the administration proposal would suspend literacy tests and other similar devices anywhere in the United States until January 1, 1974.

EXISTING LAW

Under the Voting Rights Act of 1965, literacy tests are suspended in six States—Georgia, Louisiana, Mississippi, South Carolina, Virginia—and in 39 counties in North Carolina. In addition to these seven Southern States, 12 other States have a constitutional or statutory provision requiring some showing of literacy as a precondition to voting. These states are: Alaska, Arizona, California, Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New York, Oregon, Washington, and Wyoming.

Under existing decisions the right to vote may be conditioned on a literacy test so long as it is not applied in a discriminatory fashion.

First. The proposed nationwide ban is in no sense an effective substitute for the existing provisions of the Voting Rights Act which focus on areas in which a substantial record of voting discrimination exists. There has been no evidence demonstrating the denial or abridgement of the right to vote on the basis of race or color because of literacy tests in the 12 States not now subject to jurisdiction and enforcement under the Voting Rights Act. Moreover, no lawsuits have been instituted by individuals, civil rights groups, or the Federal Government challenging the purpose or effect of such literacy tests.

Second. The Attorney General is empowered under existing law—section 3 of the Voting Rights Act—to challenge the efficacy of literacy tests anywhere in the Nation. Should the Government succeed in challenging the validity of a literacy test, there is no reason to believe that a proliferation of litigation will ensue since the States in question historically have not pursued policies of voting discrimination on the basis of race or color.

Third. The administration proposal would arbitrarily prohibit the application of all literacy tests without affording any State or political subdivision an opportunity to establish to the satisfaction of a Federal court that in fact the application of such a literacy test does not discriminate on the basis of race or color. The Voting Rights Act of 1965, of course, does enable jurisdictions covered by the automatic suspension an opportunity to be released from the act.

What I am saying to you is that by supporting this amendment you get a cleaner voting rights enforcement enactment, by proceeding in a proper and reasonable way to enforce voting rights without load, without burden, without extraneous, and, as I believe, unconstitutional provisions.

Mr. ROGERS of Colorado. Mr. Chairman, the administration proposal would suspend literacy tests and other similar devices anywhere in the United States until January 1, 1974.

Mr. DENNIS. The gentleman is correct.

Mr. ANDREWS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. ROGERS of Colorado. I yield to the gentleman from Alabama.

Mr. ANDREWS of Alabama. Mr. Chairman, the gentleman named the States and counties affected by the criteria of the 1965 Voting Rights Act. Mr. ROGERS of Colorado. That is right.

Mr. ANDREWS of Alabama. Was there any coincidence in the fact that those States and counties voted for Goldwater?

Mr. ROGERS of Colorado. I, of course, do not believe that we considered whether they voted for Goldwater, but we did consider as to whether or not there was a certain percentage of people of a certain color who had not voted in the States that I named. And that was the overwhelming evidence that I had reference to that caused the enactment of the 1965 Voting Rights Act.

Mr. ANDREWS of Alabama. Mr. Chairman, will the gentleman yield further?

Mr. ROGERS of Colorado. I yield further to the gentleman from Alabama.

Mr. ANDREWS of Alabama. Mr. Chairman, does the gentleman think it is right to permit a moron to vote in one State and not permit him to vote in New York?

Mr. ROGERS of Colorado. The question is whether or not he is discriminated against.

Mr. ANDREWS of Alabama. Just one moment.

Mr. ROGERS of Colorado. Wait a minute.

Mr. ANDREWS of Alabama. That was not my question.

Mr. ROGERS of Colorado. The question asked by the gentleman relates to the Voting Rights Act, does it not?

Mr. ANDREWS of Alabama. That is correct.

Mr. ROGERS of Colorado. The Voting Rights Act of 1965 prohibits discrimination in voting on the basis of color or race. It enforces the 15th amendment.

The CHAIRMAN. The time of the gentleman has expired.

Mr. THOMPSON of Georgia. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I regret that unfortunately this debate seems to be degenerating into somewhat of an emotional state. Unfortunately, in an emotional air we
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cannot always look at the equities of the situation.

The Members who were here earlier to hear the gentleman from Virginia (Mr. Poff), I am sure recognized that as he gave his statement it was perhaps one of the best statements that has been given in the House this year. However, he did favor my position, I believe. I called one of the fairest and clearest statements that has been made. It had no prejudice involved in it. There was no attempt to vilify the South because of course the gentleman from Virginia, the South, but he did give a clear and concise presentation of what this act is all about.

Before I get into my main subject I would like to answer a question that the chairman of the Committee on the Judiciary asked me when he had the floor, and I asked him to yield. He asked if I felt that he was prejudiced against Puerto Ricans, if you look at the hearings on page 58 you will see where the chairman makes the statement that he voted against an amendment which would allow Puerto Ricans to vote who had a sixth-grade education in Spanish, but were not literate in English.

He says: I am aware of that amendment, and I am afraid to confess that I voted against it. I think perhaps that speaks for itself. Another point that the chairman made on the same page when questioned by Mr. MacGregor, the civil rights commissioner, about literacy tests being used to discriminate he states: I admit that with a jungle of literacy tests, it may be very easy to discriminate. In that sense, I would agree with you, but only in that sense.

These, of course, are statements of the chairman. So certainly literacy tests may be used to discriminate not only in the South but in New York. But the most important point I was attempting to make during the time that I asked the gentleman to yield is this point. In the State of New York there is a lower ratio of Negroes registered to vote than in the South. Is this because there are no literacy tests in the South but New York is free to invoke such tests?

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

Mr. THOMPSON of Georgia. I yield to the gentleman.

Mr. LOWENSTEIN. Do you maintain that prior to the enactment of the Voting Rights Act there was no discrimination against black voters in the South?

Mr. THOMPSON of Georgia. Certainly not—there has been discrimination and there is no way it can be condoned. However, let me say this. You asked me whether it was proper to look at the past and try to punish for past sins, but we should look at the present and the future of this country and try to do what is right for all citizens.

Mr. LOWENSTEIN. I agree.

Mr. THOMPSON of Georgia. Whether it be Georgia, Alabama, or New York State.

If the gentleman will allow me to continue, the point I believe I made was that simply there was a higher percentage of voting-age Negroes who went to the polls in the South than in New York.

Further, from the testimony of the Attorney General on page 227 of the report—a higher percentage of voting-age Negroes went to the polls in the Deep South than in Washington, D.C., the past presidential election.

Little more than one-third of the Negro voting-age population in Manhattan, the Bronx, Brooklyn, New York City, cast their votes in the presidential election. So in essence we have a factual and emotional basis about the fact that there may not have been the turnout in the South that there was in other areas, there are other areas of the country that we have not had the turnout as well.

But let me get to some of the basis of the voting rights.

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

Mr. THOMPSON of Georgia. I yield to the gentleman.

Mr. LOWENSTEIN. Of course, low voter turnouts can result from several different causes. I would be interested to know if it is your contention that in an area which we have many voters for reasons not connected with discrimination, that that makes a situation equivalent to one where the low turnout is due to people being denied the right to vote because of their race? That question is central to the gentleman's point, since no one has alleged, much less produced evidence, that racial discrimination is the cause of the low voter turnouts that mar elections in some Southern States.

I agree that efforts should be made to increase voter participation wherever it is low, but that is not the purpose of this law. The purpose of this law is to make it possible for people to vote who wish to, to end racial barriers to the use of the franchise. Goodness knows, we have problems in New York about voter turnout—and about many other things—but these are not the problems this particular gentleman has.

Mr. THOMPSON of Georgia, I believe I understand the gentleman's question and the gentleman can have his say when he gets 5 minutes.

Mr. LOWENSTEIN. I am simply asking the gentleman a question.

Mr. THOMPSON of Georgia. I do not condone discrimination any place, wherever it may occur. But I certainly feel that all laws should be applied equally and evenly throughout the United States.

In New York State there may be discrimination or there may not—I am not making that charge. But I am making the charge that there is a lower percent of the voting-age population in New York than in the entire South, on the basis of the current figures.

Mr. MacGREGOR. Mr. Chairman, I move to strike out the last word. I rise in opposition to the amendment offered by the gentleman from Indiana (Mr. Dennis).

Mr. Chairman, the rights of citizenship, in December 1969, should be freely offered to those for whom the danger of alienation from society is most severe because they have been discriminated against in the past, because they are poor, and because they are undereducated. It is not necessary that we here necessarily imply literacy, so responsible voting does not necessarily imply an education. Thus, it would appear that the literacy test is, at best, an artificial and unnecessary restriction on the right to vote.

State officials have advised that in some of the States—for example, Delaware and Oregon—literacy requirements are no longer enforced or are enforced only sporadically.

Moreover, there is information that in many of these States the literacy test is not applied uniformly, but is applied at great variance from place to place. This lack of uniformity would appear to violate section 101 of the Civil Rights Act of 1964.

The Supreme Court appeared to tell us in the case of Gaston County against the United States that any literacy test would probably discriminate against Negroes in those States which have, in the past, failed to provide equal educational opportunities for all races, and Negroes who have received inferior educations in these States, have moved all over the Nation.

The Bureau of the Census estimates that, between 1940 and 1968, net migration of nonwhites from the South totaled more than 4 million persons. Certainly, it may be assumed that part of that migration was to those Northern and Western States which employ literacy tests now or could impose them in the future. As we know, Gaston County now requires such tests. In the State of North Carolina, the effect of these tests is to further penalize persons for the inferior education they received previously.

Thus, following the Supreme Court's reasoning, it would appear inequitable for a State to administer a literacy test to such persons because they would still be under the educational disadvantage offered in a State which had legal segregation.

Furthermore, the Office of Education studies and Department of Justice lawsuits have alleged that areas outside of the South have provided inferior education to minority groups. Following the general reasoning of the Supreme Court in the Gaston County case, any literacy test given to a person who has received an inferior public education would be just as unfair in a State not covered by the 1965 act.

In all matters of public policy, it seems to me that Congress has an interest in assuring that all citizens have equal rights to vote and that all State governments have equal rights to impose or to be prohibited from imposing certain voting restrictions.

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

Mr. MacGREGOR. I yield to my distinguished colleague from Illinois.

Mr. RAILSBACK. Mr. Chairman, I take the gentleman for yielding.

Mr. Chairman, I concur with the remarks of the gentleman. Despite the fact that I do not intend to support the Ford substitute, I think this is one section in that substitute which is excellent.
in other words, nationalizing the knocking out of all literacy tests.

Mr. HANNA. I say, also true, I ask the gentleman, that in the State of New York and some other States perhaps the mere fact that there is a literacy test is enough to cause some people to refuse to submit to the test? I want to know, Mr. Celler, Mr. Chairman, am I correct in understanding the gentleman from New York to be averse to those two aspects?

Mr. Celler. Mr. Chairman, I am averse. I want a simple renewal of the Voting Rights Act of 1965, with any and all amendments I think the country is entitled to renewal of that act without any sham.

The CHAIRMAN. The Chair recognizes the gentleman from Virginia (Mr. Scott).

Mr. SCOTT. Mr. Chairman, I rise in opposition to H.R. 4249 because it is based upon conditions as they existed in 1965 rather than the present time and would ban acts in some States that are permitted in others. It seems to me that if a given act such as literacy tests are banned under Federal law in one State, they should also be banned in all States.

The Attorney General has recognized this in recommending to the Congress a proposal which, among other things, nationalizes all literacy tests throughout the country and which an advisory commission has an opportunity to investigate the matter and to report back to the President and to the Congress. The proposal is not more sound than a straight 5-year extension of an act without any weight or consideration being given to any change in the circumstances in the individual States.

Mr. Celler, I believe this legislation is the proper way to include those sections of our country that have arrived at the place where there will be no denial by any government unit of the right to vote on this basis. But, if this is not true, it still seems reasonable to have laws on the subject equally applicable to all parts of the country. Therefore, I urge you to give your support of the administration's proposal.

You have heard the statement that no individual should be above the law and no individual below the law, and I submit that we can so somewhat further that and say that no State should be above or below but that a Federal law should be uniform throughout the country.

I wonder, however, Mr. Chairman, if some of thelegislation are not attempting to make a whipping boy out of the South and to impose restrictions upon the South which they are unwilling to accept for their own States. That is what I understand was recommended by former Attorney General Ramsey Clark before he left office. It could well have the effect of driving some Southern Democratic States to the South into the Republican Party. They might be more appreciated and more comfortable there. It will certainly have the effect of hastening the rebuilding of a Southern Democratic Party in the South. So, from a selfish political point of view, let me urge the northern Democrats to be as harsh, to be as oppressive as possible in their northern strategy. By making the Southern a whipping boy, conjuring up or magnifying southern problems, you may be able to get more votes in the North. But you will be helping us rebuild a strong Republican Southland. Your efforts are appropriate.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. Railsback).

Mr. RAISEBACk. Mr. Chairman, I rise in opposition to the Dennis amendment which, as I understand it, would have the effect of removing from the substitute offered by the gentleman from Michigan (Mr. Gerald R. Ford) the suspension of literacy tests. It does not have anything to do with the residency requirements.

There has been a great deal said about the need for this in the South but no need existing in the North. I believe we ought to be perfectly fair and reveal some other information which I came across, which was submitted by the Attorney General. The Negro in and out-of-city States—Massachusetts, New York, New Jersey, Pennsylvania, Ohio, Michigan, Illinois, Missouri, and California—there were only 10 congressional districts where less than 950,000 votes were cast for Congress in 1968.

Of those 10, one was in California and eight were in the State of New York. These nine California and New York districts—21st in California; the 11th, 12th, 14th, 18th, 19th, 20th, 21st, and 22d in New York—included most or part of all of the major Negro ghetto areas—Watts, Harlem, Brownsville, Ocean Hill, Bedford-Stuyvesant, and the South Bronx.

In the largely Negro Watts congressional district in California, the 21st, only 89,000 persons voted in 1968, less than half the turnout in the average white congressional district.

It seems perfectly clear to me that when we debate today, and try to focus attention on vote frauds, on literacy or the need for banning literacy tests in one part of the country, we are deceiving ourselves. If there is a proper way to include the entire 50 States in vote and election reform it should be done. It is my sincere hope that the chairman meant what he said—would give us early hearings if we do not get the job done today to look at all the States. That is what we should be doing.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. Dennis) to the substitute amendment offered by the gentleman from Michigan (Mr. Gerald R. Ford).

Mr. MIKVA. Mr. Chairman, I rise in opposition to the substitute amendment.

Mr. Celler, a lot has been said about literacy tests. The numbers present on the House floor ought to take a little look at what the proposed substitute would do to the residency laws of their States. And because a part of the substitute amendment deals with making uniform residency requirements, this is a special matter which I could personally favor. I think in the national elections people ought to be allowed to vote notwith-
standing the fact that they may have moved somewhere prior to the time that the existing State law allows. However, this amendment was considered by the committee but was rejected for some reasons which I think are sound and which I think should be brought to the attention of the House.

First of all, there are some serious doubts concerning the authority of the Congress to approve a residency requirement for voting in presidential elections. There was a decision made by the committee on Judiciary that says Congress has that power.

Now, in addition to the questions concerning the constitutional validity of the amendment, there are a lot of reservations about the language in this particular proposal. I think it is clear that the proponents of the amendment intend for people to vote only for President and Vice President. However, as I read the language on page 2, I think that language possibly could be construed to mean that, in an election year when a President and Vice President were to be elected, a voter would be allowed to vote for all of the offices that were up in that election.

I cite that as another example of very technical language going into such troublesome constitutional seas and feel that it should be brought to the floor of the House without full and deliberate consideration.

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

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

Mr. HANNA. In the State of California when the President is up for consideration in the 4-year period in that same election, the people would be selecting all of the assemblymen for the lower body of the house in the State and half of the senators and all of the Congressmen. Is it the gentleman's interpretation of the language that they get to vote in that election?

Mr. MIKVA. Yes, sir. I can provide for them the right to vote for everyone even though they had moved out of the State?

Mr. MIKVA. The States involved in such a move are Kentucky, Alabama, Arkansas, Delaware, Indiana, Iowa, Kentucky, Mississippi, Montana, Nevada, New York, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennesse, Utah, Vermont, Virginia, West Virginia, and Wyoming.

In all of these States the present residency restrictions would be seriously affected.

In many States, I might point out to those of you who do not have absentee voting laws, I think they would be required to have an absentee voting system, or the Federal Government would have to run one for you, because the language says that absentee votes must be accepted.

I cite this again in support of my fundamental position on a uniform residency requirement for the election of President and Vice President, I favor it and am sure that the Committee on the Judiciary will at some future time consider such a proposal just as I hope it will consider the question of national literacy tests.

Mr. ROGERS of Colorado. Mr. Chairman, will the gentleman yield?

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

Mr. ROGERS of Colorado. If the requirements set forth in the substitute are not followed, they would preempt the field and set aside all the State laws in that field; is that right?

Mr. MIKVA. Absolutely, in terms of elections.

Mr. ROGERS of Colorado. Mr. Chairman, if the gentleman will yield further, there are certain States that permit election for President and Vice President even though you have just moved into the State a couple of days before the election. That law would be set aside?

Mr. MIKVA. That is correct.

Mr. ROGERS of Colorado. And it would then go back to the 1st of September of that election year because it preempts the field and sets aside the State law?

Mr. MIKVA. I would answer the gentleman that I interpret the bill that way as it is proposed to be amended.

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

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

Mr. CELLER. Under the residency provisions of the substitute if a citizen moves into a State after September 1 and does not meet residency requirements for voting, he is given the right to vote in his former State of residence either in person or by absentee ballot. Twenty-nine States today permit new residents to vote for President and Vice President although they may arrive in the State after September 1.

What will assure that a new resident will not vote twice—once in his new State of residence, and a second time in his former State of residence? What machinery is prescribed in this so-called substitute to protect against dual voting?

Mr. MIKVA. The opportunity for “double voting” is provided, but no safeguards against the practice are established.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CELLER. Mr. Chairman, I move to strike the requisite number of words. Mr. MIKVA. Mr. Chairman, I think that most of the Members of the Committee share some of the concerns which this Member shares about legislation which is capable of being characterized as regional in nature. But it seems to me that we make a mistake if we consider rights and responsibilities in our Federal system pursuant to an institutional focus only. I think the remarks of the gentleman from Illinois (Mr. Anderson) earlier today made an effort, and successfully, to establish the proposition that these rights are only in clear focus when they are brought sharply to bear on the rights and responsibilities of individuals, and not the rights and privileges of institutions.

For example, an individual in this country has certain responsibilities to his State. Among them are, of course, paying taxes, obeying the police powers, and the voting laws.

He has further responsibilities to his Federal Government, among those are his payment of Federal taxes, the obeying of Federal laws and, of course, his Federal military service.

Thus an individual experiences his responsibilities to both institutions, both at the State level and at the Federal level. By the same token each of those institutions cannot be said to have absolute sovereignty over the individual. Both have certain rights and guarantee him certain rights. At the Federal level it guarantees by the 15th amendment his right to assume a citizen’s participation in American political life by the ballot. And we do not give to ourselves in this body any new or special capacity or privilege when we seek to implement that right successfully.

Nevertheless—

Mr. ROGERS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. BIESTER. I yield to the gentleman from Colorado.

Mr. ROGERS of Colorado. Mr. Chari-
man, I thank the gentleman for yielding, and in view of what the gentleman has said, I direct your attention to page 3 of the substitute bill dealing with the question of absentee voting.

Now we know there are a certain number of States that do not have absentee voting. Yet, in section 3 on page 3 it says that they shall be entitled to vote by absentee ballot. How do you propose that those States that do not have absentee voting, how do you propose that they would vote?

Mr. BIESTER. I suggest to the gentleman that he save that question for one who supports the substitute—I do not.

Mr. Chairman, it seems to me we also face in the minds of those people who look to our solutions for the protection of their rights a very disturbing challenge.

Young black people in this country are caught, including those who have served honorably in Vietnam, between the constant challenge of an insufficiently responsive society on the one hand, and militants who sow hate and separatism on the other.

The young people want to see the American political system work. They want to be able to tell the militants that the system works and that the future of black people in America lies within the free, full-fledged, franchised political life of America. They offer us faith in one America, and we must return that faith in kind.

Mr. Chairman, rights live only in the sure knowledge of their vindication. Let us, in this extension, continue that sure knowledge.

The distinguished minority leader has said that the States in question were asked to jump 6 feet and they jumped 6 feet.

I respectfully suggest that they did not jump 6 feet, they were dragged 6 feet.

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

Mr. BIESTER. I yield to the gentleman.

Mr. WATSON. Since you say that they did not jump but they were dragged 6 feet in either event they made the 6 feet; don’t they?

Mr. BIESTER. They made just 6 feet.

Mr. WATSON. That was all required and yet you do not reward them for that?

Mr. BIESTER. They made just 6 feet and they have to do more—if you changed the figure from 50 percent to 55 percent, they still would have to do more, they would still be covered.

Mr. WATSON. As I understand it with the same formula set in the 1965 act, they made it but now you refuse to give them credit for it, but will change the requirements.

Mr. BIESTER. We will give them credit and we will ask them to do more. In fact, one of the States in question just made it with 50.

Mr. Chairman, I urge the rejection of the substitute amendment and urge the adoption of the bill as a whole.

Mr. WIGGINS. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I wish to speak primarily on a single subject because I detect a certain undercurrent of discontent on one side of the aisle about the substitute bill.

The point is the literacy test on a nationwide basis. I realize a great many Members may feel a literacy test is not worthwhile and they may be reluctant to accept the substitute for this reason.

I want to say I have a great deal of empathy with you because I too feel there is merit to the plan you have.

The shining goal which we seek to achieve, I think, is maximum participation by qualified voters.

We will not be a better Nation by encouraging partial participation by those barely able to discern the difference between a polling booth and an outhouse.

States should be able to enact reasonable tests of competency to vote and those tests must be applied in a nondiscriminatory manner. Literacy as well as age can be such a reasonable test.

Therefore, I would prefer the continuance of reasonable tests for literacy by those States which choose to do so.

But the Supreme Court has declared the rule the Gaston case to be the law of the land. That case casts doubt on all remaining literacy tests in the 20 States now applying.

Since Gaston is the law, I am reluctantly prepared to accept the abolition of literacy tests and urge my colleagues to do likewise.

In summary and in conclusion, the substitute bill is better than the 1965 act we now have.

It is constructive that any law be applied uniformly. It is constructive to deal with the subject of State residence requirements in presidential elections.

It is constructive to extend the power of the Attorney General to place examiners in any State, not just a few, and obtain injunctions in appropriate cases to prevent discrimination in voting.

Mr. Chairman, I urge the adoption of the substitute offered by the gentleman from Michigan (Mr. Gerald R. Ford).

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

Mr. WIGGINS. I yield to the gentleman.

Mr. PELLY. Mr. Chairman, I favor an extension of the Voting Rights Act of 1965, and oppose the substitute. To begin with, I think the Voting Rights Act has been effective and I do not think this is any time to take a step backward. In other words, nearly 1 million persons have been added to the voting rolls since 1965 when this act was passed with my support.

Unfortunately, discrimination in voting rights still continues. It does more so in the South, but I do not wish to punish the people of any State, but just want to end discrimination where it exists.

The Commission on Civil Rights recommends continuation of this act and it has the support of other groups, including the AFL-CIO.

Mr. Chairman, let us not jeopardize the progress made in America in the past few years. Let us stand firm, and, if we take any action at all, let us apply the same protection to minority citizens under this law, which applies to certain Southern States, to all the States of the Union.

Mr. POFF. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, may I express the hope that he will come to grips with the vote on the pending substitute?

I believe it would be in order at this time if the chairman would try to determine how many Members would like to have the question taken before the Committee and see if it is possible to agree on a time to close debate on this amendment.

Mr. CELLER. Mr. Chairman, I ask unanimous consent that all outstanding amendments be declared out of order and the so-called Ford substitute, and all amendments thereto, conclude at 4 o’clock.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. WATSON. Mr. Chairman, reserving the right to object, I wonder if the able gentleman from New York, the chairman of the committee, will extend the time a little beyond that? There are many of us who have been seeking recognition who are not on the committee.

Mr. CELLER. Mr. Chairman, I will extend my request in the interest of 5 minutes after 4 o’clock.

The CHAIRMAN. The gentleman from New York asks that all debate on the Ford substitute amendment and all amendments thereto conclude at 4:05.

Mr. POFF. Mr. Chairman, I withdraw my reservation of objection.

Mr. GERALD R. FORD. Mr. Chairman, reserving the right to object, will the gentleman from New York, the chairman of the committee, amend the request to 4:15 and let the gentleman from Virginia make up the time he has lost on this discussion?

Mr. CELLER. Mr. Chairman, I amend the request to ask that all debate on the Ford substitute amendment and all amendments thereto conclude at 4:15.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The gentleman from Virginia is recognized for 5 minutes.

Mr. POFF. Mr. Chairman, first I would like to pay tribute to the committee and to this House. I am proud of the tenor the debate has taken. I am proud of the Members of the great Committee on the Judiciary. I am proud to have had an opportunity to try to influence a decision which will be of great consequence to this Nation. Our decision should be made carefully.

Time will permit me to review only briefly the details of the Ford substitute. As indicated in the general debate, in five particulars the Ford substitute is nationwide in character and in impact.

First, the Ford substitute provides a nationwide literacy test suspension until January 1, 1974. I emphasize that it is not a nationwide test ban, but a nationwide test suspension. During the interval the nationwide Commission which
will be appointed under the Ford substitute will study the impact of literacy tests and other devices upon voter participation by minority groups. At the conclusion of that time, the Commission will report to the Congress its recommendations for action.

Second, the Ford substitute provides nationwide residency requirements for voting in presidential elections. In a colloquy a moment ago, it was indicated somewhat in substance, that the amendments in sections 15 of the substitute may be ambiguous. To the extent that it is ambiguous, I believe it is possible to cure the ambiguity by legislative history. To the extent it is impossible to do that, I suggest that the substitute in its present form is not a final posture the legislation will assume before it goes to the President's desk. It is now nothing but a vehicle, and the Congress in its two bodies and in the conference committee will have ample opportunity to work its will upon the final product.

Third, the Ford substitute provides nationwide authority for the Attorney General to bring preventive injunction suit to prevent voter discrimination either by an individual or by a State or municipality. This, I submit, is a perfect answer to the argument that has been made repeatedly that the States presently covered by the Voting Rights Act may not coverage of section 5 is lifted, return to their old discriminatory practices.

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

The Chair has noted the Members standing at the time the request for a time limitation was made, and each Member will be recognized for approximately 1 ½ minutes.

Mr. ARENDS. Mr. Chairman, I ask unanimous consent that my time be allocated to the gentleman from Virginia (Mr. Poff).

Mr. TALCOTT. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

The CHAIRMAN recognizes the gentleman from Illinois (Mr. Arends).

Mr. ARENDS. Mr. Chairman, I yield to the gentleman from Virginia (Mr. Poff) for a question or a statement.

Mr. POFF. Mr. Chairman, I had just finished asking that the substitute offered by the gentleman from Michigan (Mr. Gerald R. Ford) makes it possible for the Attorney General to bring, in any jurisdiction in any of the 50 States, a preventive injunction suit. The substitute, in not getting, is a perfect answer to the fear expressed repeatedly that once the States presently covered are allowed to escape coverage they will somehow be beckoned into old ways and begin again the discriminatory practices which preceded the 1965 Voting Rights Act.

Finally, Mr. Chairman, the thing with which I want to be here today is the course this Nation intends to take. I most earnestly submit to this body that this Nation at this crucial time should not be compartmentalized. It should not be sectionalized. It should not be regionalized. At this critical time this Nation should be united.

When we speak of reuniting America we must all yield and all agree that old shibboleths and old prejudices must pass away.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from California (Mr. Hanra).

Mr. Hanra. Mr. Chairman, I should like to reemphasize to the Members that the measure we have before us has these problems connected with it. If Members will just read the language of the measure, we shall have to ask ourselves—and whether it can be changed by some other body I leave to their discretion—the way we are going to vote on it is that it now provides that in the election in which the President and the Vice President are up it would give rights that do not exist under State laws in many of the States of the United States. It is going to preempt the existing laws insofar as those elections are concerned.

I suggest that just as in my own State, it will affect voting on State officers and State issues. It will allow those who have moved out of the State to get involved in the total election.

Second, the problem has been drawn about how this is going to affect absentee voting. It will seriously affect absentee voting. It will give the possibility that we are going to have dual voting by the people of this State.

I suggest that any measure which has these kinds of problems connected with it should be defeated.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Ohio (Mr. Taft).

Mr. TAFT. Mr. Chairman, I rise in opposition to the amendment and in support of the bill as it was reported by the committee.

It seems to me there is something unique about the right to vote which ought to be mentioned here today. With many civil rights it is true, inevitably, that the claimed right or at least the permissible right of others is affected by the granting of or the withholding of the rights of some other individual. That is not true of the right to vote.

For that reason it seems to me the very strict letter of this bill, which I would do, and should be put upon protecting the right of each citizen of this country to vote.

The law we have passed does this. We do not know whether the amendment, should it be passed, would really work. I have my doubts, and I have heard doubts expressed by many other Members today.

We should not risk this. We should not take the chance that we would in some way hinder the progress and create the tremendous frustrations and the tremendous moral decay, which I believe could occur if there should be a backsliding in the progress we have made in this field.

If there are other nationwide concerns to which we should attend, it should be done in other legislation and should not be done in this. I think it is unnecessary for the present requirements that have operated successfully to strike at the problem where it lived in its most flagrant form.

I ask for the defeat of this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. Dowdy).

Mr. DOWDY. Mr. Chairman, I am in agreement with the statements that have been made, that every American must have an equal right to vote, and that the right to vote is the cornerstone of our Republic. However, I fear that in the light and under the circumstances those statements have been here made, they were somewhat ambiguous.

Much has been said about discrimination on the part of several States. In fact, the 1965 Voting Rights Act is highly discriminatory, because it discriminated against six or seven of the States of the United States, leaving the 43 or 50 States entirely without its scope, though many of them were just as guilty of discrimination. I believe some 12 or 14 discriminate against Puerto Ricans, including the State of New York. But the Members from those States call upon the heavens to protect them when any mention is made that the same law should apply to their States, as they wish to discriminate against a few of the States of the South.

And here in this debate, those same Members desire to compound the discrimination. They now want to continue the same discrimination, and compound it by reference to the 1960 census and the 1964 election. They know the reforms have been accomplished in the six or seven States, but in their hatred for the people of those States, they would not allow them to have a new census next year, before the present voting rights law expires; why not base a new law on the new census? We have had several elections including another presidential election since 1964, and why base present actions on days long past—or why not revert to a date during Reconstruction days?

This committee bill would not apply to my State of Texas, but understandably, the southern people—southern Virginians alone—are sensitive on this issue. They feel, with justice, that there are two classes of law in the United States—one for them—and another for the people of other States. And they can point to the unequal application of this voting rights law as proof evident. This law was framed to apply to them, and to them alone. The law is not concerned with voting fraud anywhere else. Mr. Chairman, it is intolerable and outrageous to have a double standard of law in a representative republic.

The hypocrisy in the committee bill is evidence in that it purports to relieve only the citizens and authorities of a few States from discrimination. Why should
the law not be the same for all 50 States, and apply equally to them? Any law passed by this Congress should apply equally and uniformly to all of the States. The evidence of this hypocrisy is more so, in turn, than the Unicam bill proposes to reach back to the 1964 election, rather than the more recent 1968 election. Otherwise, the newer date would be adopted, and the bill extended to protect the citizens of all States. If we are to legislate in this fashion, we would not extend it to cover the multiplied thousands of eligible voters who are omitted from the 1965 act, and who are excluded from the benefits of the law.

Mr. Howard Glickstein, the general counsel and acting staff director of the U.S. Commission on Civil Rights testified during the hearings on this bill in May of this year. He then stated:

It would be very incongruous to have a literacy test being administered in one county, and in a neighboring county there was no literacy test.

It is just as incongruous as well as discriminatory to bar literacy tests in six or seven States, yet permit such literacy tests in the remaining States.

I am fundamentally against intrusion by the Federal Legislature into matters reserved to the State legislatures by the U.S. Constitution. However, if this bill is amended by the substitute which has been proposed here, I will be inclined to support it.

Other States must oppose the bill, as I am fundamentally opposed to discrimination involving any legal rights, including the right to vote.

Mr. ANDREWS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. DOWDY. I yield to the gentleman from Alabama.

Mr. ANDREWS of Alabama. Mr. Chairman, I rise in support of the Ford amendment.

Mr. CHAIRMAN. Mr. Chairman, when Congress passed the Voting Rights Act of 1965, it marked a new low in mockery of the Constitution and was clearly one of the darkest hours for this Nation since Reconstruction.

That was 5 years ago. Now the Congress is being asked to compound its earlier mistake by giving the act a new 5-year extension. Surely this punitive and purely sectional legislation is not going to stay on the books. Surely, somewhere during the course of history, Congress will abandon the notion that the end justifies any means and return to the Constitution as a basis for legislation.

The 1965 Voting Rights Act should die, just as the discriminatory legislation of Reconstruction Congresses passed on, and for two very basic and most important reasons.

First, the act was a carefully planned plot by the Johnson administration to deprive seven Southern States, and only those, of the simple right of equal application of the law.

State laws requiring literacy and moral character as conditions for registering to vote are suspended. Does this mean all State laws, Mr. Chairman? Oh no, it applies only in States which had less than 50 percent of its voting-age residents registered to vote on November 2, 1964, or with the highest percent voted in the general election of 1964.

By no coincidence, the only States affected were Alabama, Alaska, Georgia, Louisiana, South Dakota, South Carolina, and 26 counties in North Carolina and one in Arizona, Idaho, and Hawaii. And here it is 1969, and the Judiciary Committee wants to use a 1965 formula for another 5 years. How long will this body engage in punitive legislation?

Other States go right on using literacy tests and minimum education grade levied by others, if they so choose, or anything else that they want to use. They do not worry about the Federal Government stepping in and running their elections, harassing and insulting their local voting officials. The Federal Government is preoccupied with seven of 50 States, and if this act is extended, the honeymoon can just keep right on going, and for seven States, the bondage will likewise go on and on.

Under the 1965 act, the Justice Department is permitted to conduct voter registration drives in various counties in a State. The counties are selected by the Attorney General on the basis of the relative lack of justifiable, or any, voter registration officials, and considering the quality of the Attorneys General in the past, leaving such matters to his discretion is foolish indeed.

It might be proper to mention that funds used by the Justice Department to pay its "army of occupation" are Federal funds—part of which, of course, are provided by the very States now being used as whipping boys. The whole setup is constitutionally corrupt and outrageous.

The second major reason that the 1965 Voting Rights Act should pass from the scene is that it is unconstitutional—the most recent administration is insisting that we consider ourselves in the business of passing laws that do not depart from the Constitution.

The establishment of requirements for voting and registration within the province of the States. In passing this law, the Federal Government is deliberately infringing on the rights of the States.

The Voting Rights Act of 1965 gives the Attorney General the power to veto State legislation, in those few selected States, that in any way amends or modifies existing laws or which enacts any new regulations regarding any aspect of the election process.

Therefore, these Southern States must come to Washington hat-in-hand to get Justice Department approval before any of these State laws can take effect. In other words, the 1965 Voting Rights Act presupposing that State legislatures cannot be trusted to handle the duties given them by the U.S. Constitution.

The States' right to set residency requirements for voting should also be maintained. Let us remember, we used to vote for the President of the United States by States, and it is perfectly sensible that each State determine when a resident of that State is entitled to vote. The rights of the States have suffered enough, without further abuse by extending the 1965 Voting Rights Act.

Mr. Chairman, because of the 1965 Voting Rights Act, Alabama and other Southern States have been singled out for special harassment and humiliation. In the name of decency, civility, and indeed democracy, the act should die. The Civic and Political Reunion ended about 75 years ago. It is time that Reconstruction ended too.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. McClory).

Mr. McCLODY. Mr. Chairman, I want to say quite candidly and frankly that there is no recrimination involved in this legislation. The only purpose of the continuing bill is to extend the existing legislation for a period of 5 years in order to provide all Americans with an equal right to vote.

Mr. Chairman, I think the Ford substitute is aptly named a substitute. However, it would substitute virtually nothing for something which has been demonstrated to be effective.

With regard to Negro registrations in the States which have been subject to the triggering provisions of the 1965 act, they have increased dramatically. For instance, in the State of Mississippi, Negro registrations have risen from 9.6 percent to 56 percent, and comparable improvements have been made in many other States.

With reference to legislation which has been objected to by the Attorney General, well, there are more measures that have been objected to in 1969 than in any previous year.

Mr. Chairman, we need this legislation extended now more than any other one thing.

The original legislation was recommended for a period of 10 years. That is the period of time for which we need it. So if the 5-year extension is consistent with the original intent. Therefore, Mr. Chairman, I urge the overwhelming support of this bill on the part of the Members as they supported the 1965 Voting Rights Act.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. Jacobs).

Mr. JACOBS. Mr. Chairman, those who are familiar with police work know that the concept of selective law enforcement is well established and effective in the fight against crime. I think this really describes the difference between the substituting bill which has been reported by the committee.

Selective law enforcement means that you go where the crime is being committed and concentrate law enforcement efforts in that area, rather than spread the effort thin.

Mr. Chairman, I had occasion when I was a police officer to persuade the county commission in my area to put a stop sign at a dangerous intersection where we were averaging five personal injury accidents a month. For about a year after the stop sign was installed there were no personal injury accidents at that intersection. Then some irate citizen, who was arrested for running the stop sign and who had considerable in-
fluence with the county commissioner, prevailed upon the commission to repeal the ordinance setting up the stop sign and it was taken down. The personal injury accidents resumed just as before.

That is the real "southern strategy" of special legislation.

There is only limited law enforcement personnel in the Justice Department and that personnel should be used where everybody knows the problem exists.

When the fire department is fighting a fire in a hazardous area, they do not send the firemen down the street to the asbestos plant.

The CHAIRMAN. The Chairman recognizes the gentleman from Illinois (Mr. Pryce).

Mr. FISH. Mr. Chairman, I yield to the gentleman from Ohio.

Mr. MCCULLOCH. I thank the gentleman.

Mr. Chairman, continuing reading from the letter by Fathet Hesburgh to the Attorney General:

Under the present act, they cannot make such changes without prior approval of the United States District Court for the District of Columbia in the United States Depart- ment. Even so, at least one municipality in Mississippi's election last month changed election procedures without approval and in violation of the Voting Rights Act.

Your statement recognizes has not been unusual.

The CHAIRMAN. The time of the gentleman from New York has expired.

The Chairman recognizes the gentleman from Michigan (Mr. Hrchinson).

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

Mr. HUTCHINSON. I yield to the gentleman from Ohio.

Mr. Chairman, again continuing with the letter from Father Hesburgh to the Attorney General:

Your proposed alternative would turn back the clock of history. Congress has permitted a process of litigation to try to keep up with rapidly enacted changes in the laws. It would mean that the Department of Justice would not have notice of such changes before they go into effect.

I am disturbed by our fifth proposal, which would add to the United States Government another new Federal commission, this one called a "national advisory commission," to concern itself with voting discrimination and corrupt practices relating to voting.

Mr. Chairman, this entity will be set up to study the effects which liability tests have on minority groups, to study the effect of the proposition that the Act would reserve for the Congress its findings and recommendations for any new legislation pertaining to the right to vote.

I am not sure to what purpose such a new commission would serve that is not already within the authority granted by the Civil Rights Act of 1965. The new Commission on Civil Rights, the Commission on Civil Rights is, as you know, a bipartisan, independent agency, proposed by President Eisenhower and Attorney General Brownell in 1956 and established by Congress in 1957. Attorney General Brownell said at that time:

"Where there are charges that by one means or another the vote is being denied, we must find out all of the facts—the extent, the methods, the results... study should be objective and free from partisanship."

Under its statute, as amended, the Commission on Civil Rights has been directed to:

"Investigate allegations, made in writing and under oath or affirmation, that citizens of the United States are being denied their right to vote and have that vote determined by Federal courts or the United States Senate, or of the House of Representatives, as a result of any pattern or practice of fraud or discrimination in the conduct of such election..."

The CHAIRMAN. Objection is heard.

Mr. FISH. Mr. Chairman, I yield to the gentleman from Ohio.

Mr. MCCULLOCH. I thank the gentleman.

Mr. Chairman, continuing reading from the letter by Father Hesburgh to the Attorney General:

Under the present act, they cannot make such changes without prior approval of the United States District Court for the District of Columbia in the United States Depart- ment. Even so, at least one municipality in Mississippi's election last month changed election procedures without approval and in violation of the Voting Rights Act. Indeed, it was work by this Commission which helped the National Commission on Voting Rights Act of 1966 and 1964 as well as the 1965 Voting Rights Act.

Our investigations have not been confined to cases of election fraud where there is a political discrimination against members of minority groups, though we have consistently found that the most flagrant frauds and abuses were directed against minorities.

Our investigations have not flagged. You have been provided a copy of a recent staff report on the June 1965 election in Mississippi. The Commission's numerous hearings and reports are filled with the results of our research on voting. Our publications in which deal especially with voting rights include:

"Political Participation (1966); The Voting Rights Act: First Two Years (1967); Voting in Mississippi (1965); Report of the Commission (1959)."

The Commission's budget proposal for fiscal year 1970 already requests funds for a study of political participation of minority groups outside the South.

The Commission on Civil Rights, as you know, as requested abolition of all literacy tests, a requirement for voting throughout the nation. I gather from your testimony that you agree. Certainly our recommendation that the Civil Rights Act would not prevent the Commission from re-examining that question thoroughly and with an open mind if Congress so desires.

The Commission on Civil Rights has developed great expertise in investigating complaints of violations of voting rights and in recommending steps for their correction. Indeed, the document on voting complaints outside the states covered by the 1965 Act, which you submitted for the record of the subcommittee, was a staff paper of this Commission. It would be totally incongruous to establish a new body, staff it, and fund it in order to duplicate the task of the Commission on Civil Rights based under President Eisenhower to perform and continues to perform.

President Nixon on January 30 spoke of the need for—

"Cutting expenditures, increasing efficiency in Government operations, abolishing unnecessary agencies and eliminating duplication of efforts."

At a time when funds for all domestic programs are severely limited, and when the President in April asked his Advisory Council on Executive Organization to look for ways to eliminate duplication and waste, it seems to be strange that the cost of millions of dollars, lose valuable start-up and staffing time, and add still another agency to the Federal bureaucracy to do a job that, to the
chairman, the bill that we passed in 1965, was by far the most successful civil rights legislation in the history of the United States. The Committee on the Judiciary met in May, June, and July, and civil rights organization leadership, the Conference of Civil Rights consisting of 125 organizations, wrote a letter to labor, the U.S. Commission on Civil Rights, and others, all testified before the Committee on the Judiciary, or sent statements in full support of the measure. And they of course, the Committee itself gave great bipartisan support to this extension of the 1965 act.

The problem, of course, is the proposal of the Attorney General known as the Ford bill, and the administration bill. Here again, it is months to counties to counties, organizations throughout the country and all minority groups consider the bill a disaster.

I also consider it a disaster, and I think that the colloquy that we have had here already today will show that it is so indeed. We must face a disaster.

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

The Chair recognizes the gentleman from Minnesota (Mr. MacGregor).

Mr. MacGregor of Minnesota, as a member of the Committee on the Judiciary for some 9 years now, I truly regret that I cannot vote for the Ford substitute.

I use the expression "regret" because of the high regard I have for the minority leader, but more importantly I use the word "regret" because there are very meritorious provisions contained within the Ford substitute.

Specifically, that part of the substitute which would suspend nationwide all literacy tests for a period of 5 years is badly needed. Second, that part of the substitute which would establish uniform residency requirements for voting for President and Vice President of the United States is highly desirable.

I truly hope that these two features can be written into the law of the land following hearings by the House Committee on the Judiciary early next year.

I have not the time to say a bill which would extend section 4 and section 5 of the Voting Rights Act of 1965 and incorporate the best features of the substitute. I regret that I have been unable to do so.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri (Mr. Burlison).

Mr. BURLISON of Missouri. Mr. Chairman, my vote will be cast against a bill which is the result of two years of hearings on the Voting Rights Act of 1965 and in favor of the administration substitute. I take this opportunity to briefly point out a couple of pertinent matters.

First, after observing elections in my district, I can say without fear of contradiction, a higher percentage of Negroes than whites vote there. Certainly this is no criticism of my Negro friends and constituents. Rather, it is a commendation to them. I would vigorously contest any effort of intimidation or discrimination against them.

Next, it should be emphasized that I oppose literacy tests as a criteria for voter eligibility. In my opinion a lack of formal education does not deprive a citizen of the requisite judgment for casting an intelligent vote. I believe in applying this philosophy to all the States of the Union and to all the particular region, and I would protect the vote of the unschooled citizen, whether he be black, white, red, or brown. The vehicle to do this is the substitute and not the simpleton motion. And that many Members who have carried their careers out of total resistance to the very idea of Federal legislation to protect voting—or any other Federal legislation—must now face the specter of being pitched to the pit for doing what we told is really an extension of the Voting Rights Act.

I include in the Racoes at this point a stark, for the present, the Civil Rights Civil Rights. This report, prepared under the direction of the diligent and brilliant staff director Mr. Howard Glickstein, illustrates why the 1965 act should be extended. In the words of its author: "It is that problem in the administration of the act, but anyone who reads it with an open mind will have to realize that the need for such a law is far from ended."

U.S. COMMISSION ON CIVIL RIGHTS REPORT FOR MAY 13, 1969, MUNICIPAL ELECTIONS IN MISSISSIPPI

Primary elections were held on May 13, 1969 by the white authorities to choose candidates for the June 3, 1969 general election. The U.S. Commission on Civil Rights sent two attorneys to the state for a week to observe the elections and speak with many of the black candidates who sought political office and their supporters.

McGregor of Minnesota staff attorneys observed the conduct of the election in Fayette, Jefferson County; Woodville, Wilkinson County; Clarksdale, Tallahatchie County; Belzoni, Leake County; and Belzoni, Humphreys County. Staff attorneys visited the polling places throughout the day and included contact with black candidates and their supporters in these cities. The rest of the week staff attorneys worked with black candidates and their supporters in other Mississippi towns. In all they spoke with black candidates or their campaign workers in 25 towns scattered around a total of 15 counties.

Most of the black candidates interviewed, regardless of whether they won or lost and regardless of whether they believed the election had been fair, believed that there would not have been as fair an election had it not been for the presence of the Federal Observers and the presence of numerous lawyers and others serving as poll watchers. Although there were criticisms of the manner in which the Federal Observers carried out their duties, not one black candidate in a county where Federal Observers were present believed that if they had been absent an honest manner were it not for the presence of these observers. In counties where Federal Observers were not present, there was a division of opinion as to whether there had been an honest election.

For convenience in reporting, the problems encountered have been divided into four general areas:

1. Registration to vote.
2. Qualification as a candidate.
3. The conduct of elections.
4. The role of Federal Observers.

REGISTRATION TO VOTE

In many of the towns visited by the Commission staff, it was reported that black persons have been denied registration to register to vote. This was not true everywhere, however. In Woodville, for
example, a black candidate stated that people were still afraid to register. In McComb, as an example of the fear that still exists in the Woodville area, he stated that when three college students from Michigan attempted to register to vote, poll watchers for black candidates during the election had to leave the town very late at night, and that the black woman who had been elected to the town council was under police guard when she was registered, instead of being escorted to McComb by the Deacons of Defense. In Itta Bena, there were reports of threats to bomb a black candidate's head- quarters that night before the election. The guard was placed around the headquarters by local black persons the entire night. It was discovered that black candidates who had held jobs either with the school system or the county had recently lost their jobs as a result of seeking elective office, or because they had been associated with the NAACP. Their contracts were not renewed after their involvement had become known.

A black candidate in Moorhead, in Sunflower County, stated that some black persons were afraid to vote because fear that they would take equalization suits against them. A similar reluctance to register was reported in rural areas of Quitman County by a black candidate of color for office.

Problems in registering to vote for the city elections were widespread. Difficulties were reported as early as McComb, where Edwards, Hinds County; Clarksdale, Coahoma County; Durant, Lexington and Goodman, Holmes County, said that they had experienced difficulties in registering black persons. It was reported that in Theseus, Pike County, a registration examiner for the Democratic party had not been put on the rolls. seat was a misdemeanor. That office allegedly was able to get 708 of the names placed on the city seats for the election. They had won the Democratic primary, and were not listed on the Democratic ball. At the May 13 primary, an additional 12 black persons were allegedly turned away, because they were not on the city lists, although they too had been listed by the Federal Examiner.

In one town, persons listed by the Federal examiner and persons whose names were not on the registration books, were permitted to cast challenged votes. When a ballot is challenged, the Democratic Executive Committee decides whether to count it. The chairman of the Democratic Executive Committee in that town is alleged to have said, in reference to challenges by poll watchers for black candidates: "Let them challenge all they want because the challenge comes through me when I hear about it.

When the Federal Examiner arrived in Holmes County in March, he apparently made no effort to publicize his presence. Commissioners reported that no black persons and no black persons-candidates and campaign managers as well as voters-who did not know he was in Lexington until his presence was covered by the next day. Predictably, he did not list anyone during his visit to Lexington.

lack of publicity was a widespread problem throughout Mississippi. Little or no advance publicity was given in any of the counties. While some civil rights leaders reported a presence of the Federal Examiners, in most cases nothing else was done. As could be expected, few persons knew that the Federal Examiners were not in the counties in Mississippi where examiners were sent and the number of persons listed is attached.

QUALIFICATION AS A CANDIDATE

In several towns primaries were held, even though black candidates had sought to run and thought they had qualified. The absence of a Democratic Party Executive Committee in the county and the county Democratic Executive Committee should have used a different procedure for qualifying and the black candidates were not informed of it.

In Friars Point, for example, where the Justice Department subsequently on May 17 filed a suit, black candidates sought to qualify by filing their papers with the County Democratic Party Executive Committee. The local newspapers allegedly reported that the black candidates had qualified for the primary. Shortly before the primary, however, it was announced that the black candidates were not qualified for the primary, because they allegedly had not complied with certain statutory requirements, because the black candidates had failed to file with the local Democratic party their petitions several weeks before the deadline for qualifying in the Democratic primaries. The black candidates were not notified that their petitions had not been filed until after these deadlines had passed. The Justice Department suit charged that "without notice of the defect or errors, the defendants altered the procedure for qualifying." This was done without obtaining the approval of the local Democratic party. The case was filed in Section 5 of the Voting Rights Act of 1965.

In Centerville several black persons attempted to qualify to run in the May 13 primary for city positions. They filed the required notices with the city clerk in Centerville and with the Secretary of the Democratic Committee in Woodville. They were told by the city clerk in Centerville that the town did not have a primary election. They were not told, however, that there was a procedure for obtaining a primary election. To run in a municipal primary in a city without a Municipal Executive Committee the Chairman of the City County Committee and the Chairman of the County Executive Committee to call a special meeting of registered voters. At this meeting a temporary Executive Committee was appointed to conduct the primary. The black candidates learned from civil rights lawyers in Jackson, however, that they could qualify as independent candidates if they obtained signatures from 75 registered voters. Three candidates were able to get the signatures, even though they learned of this possibility the day before the filing deadline. Thus they were able to go on to the June general election. In North Carrollton, in Carroll County, and Pickens, in Holmes County, black candidates attempting to qualify as Democratic candidates could not do so. The Democratic primary they could qualify as independents if they obtained signatures from 75 registered voters. Three candidates were able to get the signatures, even though they learned of this possibility the day before the filing deadline. Thus they were able to go on to the June general election. As in Centerville they were not told there was a procedure by which a primary could be held.

A black candidate in one town in Holmes County, however, was unable to qualify for election because of the failure of the registrar to use proper procedures to follow. She allegedly filed her papers to run for office with the town clerk and the town clerk, after the election, said that she was not allowed to run. She told him, however, that she had to take the papers to the Mayor. She returned to the town clerk, obtained her papers from him and was informed by him that he had nothing to do with the election. She then went back to the clerk's office, but he had left. She returned the next day and gave the papers to the clerk, but was told that she was one day past the deadline and, therefore, the clerk refused to put her on the ballot.

In Woodville, black voters were totally excluded from a second unofficial "white primary." All the black candidates for the Democratic party were defeated. However, black and white persons had qualified as independent candidates for mayor and aldermen. This was done without the knowledge of the white voters who would cast the white vote; would split since there were two white candidates and one black candidate for mayor and eight white and one black candidate for the aldermen. To avoid this, the County White Citizens Council sent a letter to all white voters asking them which candidates they would support in case of the white candidates. A copy of this report in contrast to the letter of the campaign poster is attached illustrating the slapstick used by several black candidates in the area: "Don't vote for a black man. Or a white man."
Just a good man. . . . Doesn't that sound good.

In Canton, some black candidates qualified to run in the Democratic primary; others running as independents will appear on the ballot. The black candidates, who were listed June 1st, are given the election. The city, however, allegedly denied 10 black persons and adding a number of which white persons, to register to vote, the city being by the Voting Rights Act of 1965 submit these changes to the Attorney General or the District Court for its approval. A suit was brought in Federal court on May 10, 1969 the holding of a primary and general election was enjoined.

The Black Vote

On the day of the primary, significant irregularities occurred in a large number of communities in which black candidates ran. Among the most frequent irregularities were restrictions upon the registration and voting of black voters. Title 14, section 3128 of the Mississippi Code states: "Each person, whether in person or by a representative to be named by him, to be present at the polling place, and the machinist should provide him or her representative with a suitable position from which he or her representative may be able to carefully inspect the manner in which the election is being conducted.

Despite this provision, election officials in Marks allegedly required poll watchers representative of the black voters. In other locations the ballot tables were not far away from the black voters, and the officials at the table, not representing the black voters, where they could not see the names on the ballots and thus could not carry out all of the normal functions of poll watchers. In Leland, where no Federal observers were present the election officials also allegedly required poll watchers that the black candidates to stand at their regular polling place to vote, the election officials stated that there had been a change, but refused to aid voters in their proper voting place. As a consequence, these persons did not vote. In Greenwood, one black voter was not allowed to vote until she had understood the process in a few minutes, although her name was on the voting list.

In Clarksdale, four black persons attempted to vote, but were turned away because there were originally marked as having voted. One of the student volunteers felt that the two ballots being used for the election, alleged by being more than one person with the same name registered but the name approved by the city clerk, was not under oath to voters at their proper voting place. As a consequence, these persons did not vote. In Greenwood, one black voter was not allowed to vote until she had understood the process in several minutes, although her name was on the voting list.

A slightly different variation occurred in Vicksburg. A number of voters of a predominantly black ward, and presumably also some in predominantly white wards, were told to give or help other to vote for the candidates. Their names had apparently been dropped for some reason. When a poll watcher at this ward attempted to register some names, the election officials refused to register them. When the ballot was cast challenged ballots he reportedly was told that this was not the custom in Vicksburg, apparently because the city used machines. It was not until 1:30 p.m., six and a half hours after the polls had opened, that paper ballots were furnished. The city's registration lists had been challenged, notwithstanding section 3170 of the Mississippi Code which clearly establishes the procedures for the challenging of ballots.

In Clarksdale, for instance, the Federal Observers frequently did not observe the assistance being given to illiterate black voters. In Goodman, they stationed themselves in a location from which it was impossible to see several of the voting booths, and consequently did not know when black voters in that part of the polling place needed assistance. In a few instances, some of the Federal Observers conducted themselves and from the policies under which they operated.

In Clarksdale, for instance, the Federal Observers frequently did not observe the assistance being given to illiterate black voters. In Goodman, they stationed themselves in a location from which it was impossible to see several of the voting booths, and consequently did not know when black voters in that part of the polling place needed assistance. In a few instances, some of the Federal Observers conducted themselves and from the policies under which they operated.
woman was handed a ballot, walked over
to the table and appeared uncertain about what she should do. As she
approached the table an election official reportedly took the
ballot out of her hand and placed it in the box. Despite vocal protests by
poll watchers about this matter, the observers apparently felt the issue was too frivolous
to warrant the involvement of the police. A Commission staff attorney noticed that
the Federal Observers, at first, were making a brief presence but then noticed
there was a ballot on which votes were not
counted. Later in the evening, however, he
noticed that they appeared to have lost their interest and failed to do this on several
occasions.

Black candidates and poll watchers at the
Woodville, Mississippi, election assumed the role of the Federal Observers. One
student from Michigan State University, a poll
watcher for one of the black candidates,
charged that the Federal Observers challenged
their right to observe the election. After the
poll watchers showed them the
Mississippi Code which allowed their
right, the out-of-state people from acting as poll
watchers, the Federal Observers challenged
their right to stand near the table where the
ballots were cast. Several instances occurred
where the local election officials upheld the
right of the poll watchers.

The Commission in its Report on Political Partic-
ipation recommended the Department of Justice policy of “keeping the Federal
presence as inconspicuous as possible” when
observing elections. The Commission
recommended that the Attorney General
“should announce publicly in advance of the
election that Federal Observers will be pres-
ent and should assure that the observers are
identified as Federal officials.”

This recommendation has never been im-
plemented. Shortly before the election, until the last minute, the cities and polling
places in which Federal Observers would be present for the May 15 election. The reasons
stated by the Commission for its stand in 1968, however, remain true today:

“The subdivisions where the assignment of
observers is warranted are those in which there is a likelihood of discrimination at
the polls. It is important for Negro voters in
these subdivisions to know that observers will be present. For Negro voters, as for
others, the presence of Federal Observers from subjecting Negroes who attempt to
vote to discrimination and the harassment,
indignity, and humiliation which accom-
do.

The Commission’s recommendation that
the observers be identified as Federal officials
has, similarly, not been implemented. Across the
country, the May 15 election, Federal
Observers failed to identify themselves
by word or by kind of sign or official insignia.
In its 1968 report, the Commission stated
that “identification of the observers [would]
serve to confirm Negro voters that they
will be afforded comparable treatment with
other citizens at the polls.” Without identi-
fication of the observers and advance notice of
their presence, black voters feel no such assurance. A violation of this
right by the
Commission staff attorney, a black candidate
did not know, two days after the election, who a
Federal Observer had been present.

In its 1968 report, the Commission rec-
ommended that the Attorney General should
“instruct Federal Observers that they have a
duty to report instances of local election
irregularities affecting Negro voters”.

One of the reasons for this recommendation
was that, under the Department of Justice
policy, the “right of the Federal Observers to take
steps as may be necessary to fulfill the ob-
servational functions,” and that the irregu-
larities they observe should be reported first
to the captain of the observer team, and then
to a Department of Justice attorney, who will
take it up with election officials, [m]uch or all
of the election day may elapse [before]
the

In the May 13 primary, the Federal Ob-
servers acted only as passive recorders
of events, refusing at all times to speak to
the election officials about the most
significant discrimination against black voters. A Com-
mission staff attorney in Woodville was
informed by a lawyer from the Civil Rights
Division of the Department of Justice that
it was Department policy that the Federal
Observers were to speak with no one.

The Commission, however, disapproved of the
Federal level monitoring the election would speak to local officials about
the most obvious irregularities
in the Justice Department attorney assigned
to that county or pair of counties returned
to the particular polling place. In Itta Bena, this process apparently took three
hours from the first time an irregularity was
brought to the attention of the Federal
Observers by local poll watchers—at which
time the observer, as noted above, that the black
voters turned away was fully qualified to vote—to
the time when the Justice Department attor-
ney arrived. In that time, a total of 26 vot-
er did not vote. Local candidates and their poll watchers were
given no information telling them how to
get in touch with Department representatives
more quickly.

Neither the observers nor the local elec-
tion officials informed voters that they
could have assistance in voting and that Federal
Observers could watch the assistance being
given. Only if a voter asked for such assistance or if he was unable to write his
name was individual assistance available.

Since many illiterates are able to write
their names but not able to read and under-
stand a ballot, the limited provision of in-
formation left many black voters, needing assistance, ignorant of the possibility
that assistance could be given and that Federal
Observers could watch it as it was being

Although the stated policy was that the
observers should talk with no one, a Com-
mission staff attorney, a black candidate
in Woodville engage in animated conversation
with the white election officials on numerous occasions. When a local
poll watcher, black candidates or any local
black people, however. Two observers there
also refused to speak to the Commission
staff attorney, one of the
number of persons who had voted and the other
the—one who had allegedly challenged
the right of the poll watchers for the black
community, for his name.

Some of the local black persons under-
standably felt that the observers were in
sympathy with the white community. At
one point in the election assistance was avail-
able. Since many illiterates are able to write
their names but not able to read and under-
stand a ballot, the limited provision of in-
formation left many black voters, needing assistance, ignorant of the possibility
that assistance could be given and that Federal
Observers could watch it as it was being

U.S. Governmental Memorandum

APRIL 3, 1969.

From: David H. Hunter.
Subject: Mississippi Voter Registration.

Federal Examiners were directed to list persons to vote on four Saturdays in
March. This was the only listing in Missis-
issippi by Federal Examiners in 1969 prior to the holdings of local elections.

A hymn is used to indicate that no Federal
Examiner was in the county on that date. The results are as follows:

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SUMMARY

The election of some black persons to
municipal office in Mississippi since
that some changes have occurred in Mississippi
since the passage of the Voting Rights Act of 1965. Even after these victories, however,
in all cities and towns in Mississippi will
still be governed by all-white local govern-
ment.

Interviews with observations by staff attor-
neys suggest that this is in part due to the
following:

1. Many black persons in Mississippi still
fear economic or other reprisals if they regis-
ter to vote or openly support black candi-
dates.

2. Officials in some cases have made regis-
tration difficult for black persons by narrowly
limiting hours for registration, by failing
to adequately inform applicants of
procedures required to vote in local elections,
and in some cases by actually mis-
informing them as to these requirements.

3. Black persons continue to be excluded
from serving as election officials in most
areas of the State surveyed.

4. At the request of the Attorney General
were assisted or misinformed black candidates
seeking to obtain

5. The Voting Rights Act of 1965 estab-
lishes procedures to be followed before local
officials change election requirements or pro-
cedures or remove from the poll books per-
sonalities identified by the Federal Examiners. In
many instances throughout Mississippi, local
officials took such actions without observing the
Act or any of the procedural safeguards
provided by the election laws of the State of
Mississippi.

6. The Federal Government neglected to take
adequate steps to inform citizens of the
presence of Federal Examiners and thus
examiners listed relatively few voters in recent
months.

7. Some Federal Examiners failed to trans-
mits the names of persons listed by them to
city voting officials, and as a result many black voters throughout the State had their
ballots challenged or were turned away from the
polls.

Although most black candidates believed
that, if the presence of Federal Observers
on the record, the election procedures,
number of election irregularities occurred
even where Federal Observers were present.

The effectiveness of Federal Observers
was limited by their failure to make their
presence known to voters and by their fail-
ture to intervene at once when irregularities
were observed.

U.S. CONGRESSIONAL RECORD - HOUSE  December 11, 1969

31530


**DEAR FELLOW CITIZEN OF WOODVILLE: YOUR local Citizens Council is gravely concerned about the upcoming Woodville Municipal General Election which will be held on June 3rd, and we feel sure that as a public spirited white citizen, you are equally concerned.

First, may we emphasize the fact that we have no axe to grind nor political fortunes to favor or destroy in the Alderman race. We are merely taking this action purely and simply to endeavor to insure that white officials are elected on June 3rd.

As you doubtless know, the present prospects in the Mayor's race present two white candidates and one negro candidate. In the Alderman race, there are eight white candidates and one negro. In both instances, the negroes are thus virtually assured of election.

We have found that forgetting personal ambitions or desires, some of the white candidates should withdraw so that there will be only one white candidate for each office. It is our understanding that some of the candidates are agreeable to this, provided it can be ascertained which the majority of the white people desire.

In an attempt to determine the wishes of the white voters of Woodville, we are therefore enclosing this envelope with election cards which we feel will be of tremendous assistance in working out a compromise—provided you, the voters, cooperate by taking part.

We are enclosing herewith an unofficial ballot which we ask that you mark in private and return to this office immediately by mail. You will note from the enclosure that there is no way your ballot can be identified, and your vote will thus be secret. As soon as possible, since the deadline for printing the Official Ballot is near, we will open these envelopes and tabulate the votes_in the presence of all candidates or their representatives. From the resulting tally, we hope to be able to afford that forgetting of this grave issue which faces us all.

Do please not delay. Time is of the essence. Please mark and return the enclosed ballot today.

May we thank you in advance for your cooperation, and again assure you that our only motive in undertaking this project is public service in what we feel is the best interest of the Town of Woodville.

Sincerely,

**WILKINSON COUNTY CITIZEN COUNCIL**

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**STRAW BALLOT**

(*Not an Official Ballot*)

**FOR MAYOR—TOWN OF WOODVILLE**

(Vote for One)

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(*Note.—This is not an Official Ballot, but merely an attempt by the Citizens Council to ascertain the candidates preferred by the white voters of Woodville. See letter attached.*

**MR. ECKHARDT.** Mr. Chairman, if I am not correct about this, I should like to be corrected.

As a matter of fact, I heard the gentleman from Virginia (Mr. Poff) rise on the floor a minute ago and state quite correctly that section 3 of the act is a permanent provision of the act and only permits the Attorney General after an action in court to bring action to appoint examiners.

This does not now apply all over United States under the present act, but it would apply nationwide under the act as amended.

Under the present act in sections 4 and 5, it limits the authority of the Attorney General to appoint examiners, as provided in section 6 to the situation where registration and voting were below 50 percent in the 1944 election.

A court order has nearly always been required as a matter of practice and a court order would have to be obtained after the conclusion of the 5-year period.

But under the amendment, no court order would be required and examiners and registrars could ride all over the United States through the South, the North, and the West, and apply to the Attorney General for the Department of Justice throughout the country.

As I am willing to apply somewhat drastic cures to drastic ills, I do not believe it desirable to grant power under the amendment to ride herd over elections all over the country—even though there is no inking of wrongdoing or discrimination.

The special temporary authority under sections 4 and 5 of the existing act was an authority granted in a special circumstance where well established evidences of enormous abuse had been adduced. The authority, as has been pointed out, was limited in time and territory. But the authority granted in this amendment is broad and permanent. I am not willing to so extend the authority of an appointive office without the guidance or limitation of court.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. Biester).

Mr. BIESTER. Mr. Chairman, we are nearing the end of debate on the substitute and it seems to me the most important thing we should recall is that the enforcement section of the voting rights bill is the heart of the subject.

What we would be requiring those provisions in the States covered by the bill to do were we to adopt the substitute—would be to put them back in the game of catch-up football. I urge defeat of the substitute.

The CHAIRMAN. The Chair recognizes the gentleman from Louisiana (Mr. WAGONNER).

Mr. WAGONNER. Mr. Chairman, the gentleman from Texas (Mr. Eckhardt) attempts to strike fear in the hearts of southerners by painting a picture attempting to portray the awful things which may happen. It seems to me the most important substitute for this and give the U.S. Attorney General authority to do in all States what can be done now in only a few southern States.

Let me tell the gentleman from Texas (Mr. Eckhardt), as a southerner, this is exactly what we want to do. We want to spread the blessings around. Since we have been chosen for special blessings because we are southerners, we want everyone else to enjoy those blessings, everyone who thinks they have been so good for us. This is exactly what we want to do. I am not willing to let it apply to everyone and all States alike.

We want others to see how high-handed and unfair people like Ramsey Clark and General of the United States have been. We want others to feel the wrath of these people who ignore the law and abuse States who live in the law.

We feel if they feel this, they will come back and write some different and fair-minded legislation. When other people are discriminated against as we have been, then, perhaps something will be done. Vote for the substitute. Treat everyone fairly. I believe the present Attorney General will administer the law with equity. I believe he is a fair-minded man.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. Dennis).

Mr. DENNIS. Mr. Chairman, I yield to the gentleman from Michigan (Mr. Gerald R. Ford).

Mr. GERALD R. FORD. Mr. Chairman, I am grateful to the gentleman from Indiana for yielding.

Mr. Chairman, I would like to make the observation and comment. If we are interested in maximizing the opportunity for people to register and to vote in all 50 States, then we should support the substitute amendment which I offered.

I might say to those who have been most vigorous in their advocacy of increasing registration and voting for Negroes, I believe that if we really believe what we always say, we can pass legislation covering 50 States by my substitute. But the principal point is that I feel what we ought to do is to treat all States alike and all people alike. That is what the substitute does.

One other observation: As I said in my remarks yesterday and today, there is a deeply imbedded principle in our philosophy, in our American heritage, that one is presumed innocent until he is proven guilty. The law that has been on the statute books turns that around and has presumed seven States guilty until they were able to prove their innocence. The states in which legislation was abolishing 5 years ago, have proven that innocence. I think it is unfair and it is
inequitable to keep them in continuous servitude for another 5 years. I further believe that the way to remedy it is not to make the other 43 States be in the same condition, but to make the seven equally treated with the other 43. I strongly believe that the nation is in a state where I have offered to this body should be approved, and all States and all people will be treated one and the same.

Mr. McCulloch. Mr. Chairman, will the gentleman yield for a question?

Mr. Gerald R. Ford. I yield to the gentleman from Ohio.

Mr. McCulloch. Chairman, would the gentleman from Michigan please tell us how this substitute would maximize the registration of blacks in the States affected, using my own State, about which I know. How would the legislation maximize that in Ohio?

The CHAIRMAN. The time of the gentleman from Michigan has expired. The Chair recognizes the gentleman from South Carolina (Mr. Watson).

Mr. Watson. Mr. Chairman, earlier the distinguished chairman of the Judiciary Committee asked, the prophet of Leviticus when he said: "Proclaim liberty throughout the land and to all the people," but yet the gentleman said we should protect that liberty to vote only in six Southern States.

The question is whether or not we are going to protect the voting right of the black American for under the substitute those rights would be protected. The question is whether or not we are going to protect the voting rights of the black in the State of the Nation. We have to resolve this question in our mind.

If the Members believe that we should continue a discriminatory piece of legislation and reward those six Southern States who have tried, whether they were dragged there or voluntarily went there, by putting them under 5 years of additional servitude, then they can vote for the proposal as it is.

But I do feel that the Gentlemen back home will ask why you demand to protect the rights of the black man in the South but do not support a measure to give the same protection to the black man in your district in the North? That is the question one has to ask.

Mr. Chairman, I am strongly against any Federal voting standards, inasmuch as the Constitution provides that qualifications of electors are the prerogative of the individual States. But, if the 1965 Voting Rights Act is to be extended, it must be expanded so as to apply to all States of the Nation rather than six Southern States, including my beloved South Carolina.

In my judgment, if the present law is to be broadened to include every State in the Union, then most certainly that in itself would be an admission that the 1965 act was conceived in vengeanceness passed in prejudice, and continued in hypocrisy. As our able minority leader said when he was supporting his substitute which would remove this yoke from the neck of the Southern States, "there should be no second-class citizen in America. There should be no second-class State." For the proponents of the simple 5-year extension of this

entirely southern measure to quote from the Civil Rights Commission in justification of its forward up: "The extension of the Voting Rights Act of 1965 is a resource which will never be satisfied unless the South is totally severed from the Nation."

Then, too, it is inconceivable that some of our colleagues from the North are so zealous in demanding rights for the black man in the South while denying those same rights to the black man in the other sections of the Nation.

Certainly the garnering of a vote is not so important to anyone as to warrant making the South the whipping boy of the Nation. We are proud people, and while the Federal laches may be applied to our backs, they will never make us succumb to admitting the constitutionality of an unconstitutional measure.

The most incredible aspect of the whole argument is that while it is an admitted fact that my State and four other Southern States have met the 50 percent qualification in the last 1968 general election, the authors of the straight 5-year extension refuse to use the latest election figures, continuing to insist upon the use of the 1964 election results.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. Ryan).

Mr. Ryan. Mr. Chairman, the question before the House is whether or not the key provisions of the Voting Rights Act of 1965 shall be scrapped—whether or not the clock shall be turned back to the days when there was wholesale discrimination in the right to vote and no effective remedy.

A big point has been made about the fact that certain States had voting participation in the 1968 presidential election of a little more than 50 percent. This turnout reflects the impact of the act and should not be used to escape the very provisions which made it possible.

I refer the Members of this Committee to page 4 of the report, which points out that the States in these States less than 50 percent of the voting-age blacks are registered.

In 1968, for example, in Alabama, less than 50 percent of those of voting age were registered in 27 of 67 counties. In five counties the black registration was less than 35 percent.

So it goes in Georgia, Mississippi, and South Carolina.

The report states at page 4:

Although statewide totals do reflect increasing percentages of Negroes over the 1964 totals, all counties do not, and in a real sense of the word, still disclose extremely low Negro registration. For example, in Alabama, less than 50 percent of Negroes of voting age are registered in 27 of 67 counties; in five counties, Negro registration is less than 35 percent; in Georgia, less than 50 percent of Negroes of voting age are registered in 58 of 132 counties; in 27 counties it is less than 35 percent; in Mississippi, less than 50 percent of Negroes of voting age are registered in 24 of 59 counties; in South Carolina, less than 35 percent; in South Carolina, less than 50 percent of Negroes of voting age are registered in 33 of 46 counties; in three counties it is less than 35 percent.

It is important for us to continue section 4 and section 5 so that the right of people to vote will be protected in those areas.

The Ford substitute, which fits neatly into the administration's southern strategy, eliminates the automatic features of the 1965 act which have made it effective. By removing section 5, this retrogressive proposal opens the door wide to all of the old stratagems and maneuvers which were employed to deny access to the ballot box to black Americans.

If the administration were really concerned about protecting the right to vote nationwide, then it would urge extension of the act to 1970, etc., using its power to cripple it. The Attorney General could have advocated an extension of the essential remedies combined with a complete ban on literacy tests. Why did he not? The Department of Justice obviously did not have such legislation.

I have always opposed literacy tests in every part of the country. I first introduced legislation to abolish literacy tests which were employed to deny rights in the 87th Congress, H. R. 8901, and I reintroduced legislation in the 88th Congress, H. R. 6029, and the 89th Congress, H. R. 2477. In this Congress I am a sponsor of H. R. 1518, along with the insominate from Michigan (Mr. Coyless). The Chairman of the Judiciary Committee has assured us that the Judiciary Committee will hold hearings early in the next session of this Congress. Legislation banning literacy tests should be enacted in addition to the present Voting Rights Act.

The vice of the Ford substitute is that it weakens the present law. For that reason it is opposed by the U.S. Commission on Civil Rights.

The administration's substitute is a much weaker bill.

Roy Wilkins, director of the NAACP who is also chairman of the Leadership Conference on Civil Rights, which comprises 125 national organizations, has written to Members of Congress urging defeat of the substitute.

Now is no time to retreat. The Voting Rights Act of 1965 should be extended.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. Couhlin).

Mr. Couhlin. Mr. Chairman, we are dealing today perhaps with the most vital and basic and fundamental right of all; that is, the right to vote in this great land of ours.

Extension of the Voting Rights Act of 1965 will serve as our legal and moral commitment — necessary and unimpeachable—to the cause of civil and human rights. The administration proposal in the substitute contains some excellent points which should be studied carefully by the Judiciary Committee, it also contains one point that guts the enforcement provisions of the Voting Rights Act of 1965.

If we vote for the substitute today we can properly be accused of gutting the Voting Rights Act that guarantees this fundamental civil right of all, the right to vote.

The CHAIRMAN. The Chair recognizes the gentleman from Colorado (Mr. Rogers).

Mr. Rogers. Mr. Chairman, I yield to my colleague from Colorado (Mr. Evans).

Mr. Evans of Colorado. Mr. Chair-
man, I rise in opposition to the substitute and in support of the committee bill.

Why is it that the President, the minority leader and other gentlemen, let these sections of the 1965 Voting Rights Act expire? To find the answer we should look at the effect of these sections during their existence the past 4 years. We all know that the effect of these sections has been to allow and encourage more registration and more voting of Negroes in the last 4 years, in some states, than at any time since the Civil War? Is this as simple as that.

This has been true because the burden of proof has been placed upon States, rather than on individuals, under certain circumstances, to show that laws, rules, and procedures of the State do not discriminate.

Well then, who complains of these sections and why? First, those who believe the dignity and sovereignty of their State has been diminished by their operation. And, second, those who fear and do not want Negroes to register and vote.

They believe without doubt that the purpose of the proposal was to make it more difficult to return to the old ways of discrimination to believe that they may begin again to reconstruct the disadvantages and impediments to the registration and voting of Negroes in their States.

Mr. ROGERS of Colorado. Mr. Chairman, as I recall, it is my understanding that the substitute was introduced on July 9, 1969, and that the hearings in connection with this legislation had been concluded on July 1, before the committee recessed the substitute. I believe that the purpose of the proposal, to cross-examine witnesses in connection with the language of the proposal. Hence I believe it is not proper that we should adopt it at this time.

Mr. Chairman, will the gentleman yield?

Mr. ROGERS of Colorado. I yield to the gentleman from New Jersey.

Mr. HUNT. Mr. Chairman, I want to express my support for H.R. 12695, the "proposed Nationwide Voting Rights Act of 1969."

We must, in my opinion, broaden the coverage of the Voting Rights Act of 1965. The bill reported by the Civil Rights Committee (H.R. 4349) would merely keep in force for an additional 5 years the provisions of the 1965 act. In contrast, the bill which I support would afford nationwide protection of the right to vote.

A key feature of the nationwide bill is the provision suspending the use of all literacy tests. Perhaps, at one time there was justification for making literacy a prerequisite for registering to vote. However, there is no longer a proper basis for such a requirement. Radio and television are available to the overwhelming majority of households and especially to the illiterate. Millions of people respond to public questions generally. We are no longer dependent upon the printed page as the sole source of information regarding candidates and issues.

Most States have either abolished the literacy test or have never had the ability to read a precondition for voting. H.R. 12695 would suspend literacy tests in the 20 States which retain such a requirement. I submit that this measure embodies the right of the rights of the undereducated, in whatever part of the United States they may reside.

I urge the adoption of H.R. 12695, the substitute nationwide voting rights bill offered by Mr. WAGGONNER.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. Mr. Chairman, I ask unanimous consent to yield my time to the gentleman from Washington (Mr. MEEDS).

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. TALCOTT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. Mr. GIBBONS, I will use the time, then, Mr. Chairman.

The CHAIRMAN. The gentleman from Florida is recognized.

Mr. GIBBONS. Mr. Chairman, I guess I am about as southern as anyone in this Chamber by geography and by heritage, but I cannot support the substitute proposed by the gentleman from Michigan (Mr. GERALD R. FORD), though I must admit it looked rather attractive the first couple of times I looked at it.

Down in my part of the country, ever since I have been big enough to know anything about it, we have not been discriminating against the right of Negroes to vote. We have encouraged them to vote and register. Our elections have been conducted honestly.

I regret that my other colleagues from some areas of the South find themselves in a bind, so they cannot meet the nationwide test of just 50 percent of the people in their own jurisdictions being registered and able to vote. I hope this deficiency will soon be remedied. In the meantime, I doubt that the Ford substitute will be of much help.

Mr. CHAIRMAN. Mr. Chairman, the Chair recognizes the gentleman from Washington (Mr. MEEDS).

Mr. MEEDS. Mr. Chairman, I rise in opposition to the substitute amendment. I was particularly struck by the arguments of the distinguished minority leader when he offered his substitute. If I correctly understand that argument, it was that the Attorney General could move in, that the Attorney General could have the power to do this and to do that.

Before we turn over this vast power and authority to the Attorney General, I believe we ought to examine his track record in similar areas where he presently has such power and authority.

Mr. Chairman, on August 25 of this year the Attorney General had the power and authority to move in, the Fifth Circuit, Mississippi, for immediate implementation of HEW plans. He did not do so. Instead, through his deputies he moved for a delay.

Mr. Chairman, on October 29, he had that power and authority to appear before the U.S. Supreme Court in Holmes against Alexander and speak out for immediate integration of 16 of the 33 Mississippi school districts. What did he do? He had his deputies appear and seek further delay.

I believe the threat of the Supreme Court they disagreed unanimously with his position and the case was remanded to the Fifth Circuit Court with instruction of immediate integration.

The CHAIRMAN. Mr. Chairman, the Attorney General had the power and authority to appear before the Fifth Circuit Court and move for immediate integration of 33 school districts in contested cases. In all instances there were plans for integration before the court.

How did the Attorney General exercise that power and authority? He instructed his deputies to urge of the court further delay and further planning. This despite the holding of the U.S. Supreme Court in Holmes against Alexander remanded by the Fifth Circuit Court specifically set forth that the plans of the 16 districts before the court in that case could be implemented immediately. The Attorney General found himself on the wrong side of a court order requiring haste in integration as the Fifth Circuit Court ordered immediate implementation of 26 of the 33 plans.

Further, Mr. Chairman, immediately after the decision in Holmes against Alexander the Attorney General had the power and authority to move in hundreds of cases where there are federal courts in the South, where there are plans filed, for immediate implementation of those plans. This could be done by simply filing so-called "Holmes" motions. My latest legislation is that there have been a number of these motions prepared for nearly a month but still they have not been approved for filing by the Attorney General.

I submit that if we pass this substitute which gives the Attorney General new powers and authority in the field of civil rights and then sit back and wait for him to exercise that power and authority we may have a long wait.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Chairman, the record is clear that the substitute, if adopted, would repeal necessary portions of the 1965 Voting Rights Act.

I call to your attention some rhetoric which we have heard this afternoon. The distinguished minority leader said he does not want to keep those five States in servitude any longer. That sentiment was echoed by the gentleman from South Carolina (Mr. WAGGONNER).

Mr. Chairman, for heaven's sake, it is to be considered servitude if we require States to let all their citizens vote regardless of their race or color? What kind of representation?

Mr. Chairman, the minority leader who proposed the Mitchell substitute tells us that in his opinion it does a better job of promoting voting rights than does the 1965 Voting Rights Act. That opinion is apparently shared by the gentleman from Louisiana (Mr. WAGGONNER). It is, however, vigorously opposed by Mr.
CELLER and Mr. McCulloch and Father Hesburgh, president of the Civil Rights Commission, and by every element of the leadership of Congress, an association of organizations responsible for so much public support for civil rights legislation in the past.

Oh, yes, by way of postscript, the architect of this great substitute was, I understand, Attorney General Mitchell; architect of the "southern strategy" al- luded to a few moments ago by the gentleman from Virginia (Mr. Scott). That "southern strategy" is the theory of some Republicans that if they turn their backs on racial justice, if they pander to segregation and discrimination, that they can somehow build a national party of majority stature. Such a tactic is immoral, unconscionable, patently destruc- tive to the Nation, and in the long run, doomed to failure. It will, I am confident, be rejected by an overwhelming number of Americans, both Democrats and Republi- cans. The gentleman who proposes the substitute gives us a glowing report of the good faith of the States covered since 1965 by the voting rights bill. How many Americans know that in places like New York and Philadelphia where there was that good faith in the 5 years before Fed- eral intervention, 5 years during which black Americans were fired from their jobs, driven from their homes and ass- atuated and in some cases, and I know him in mind, they prevented their exercising their right to vote. And where will that good faith be if the minority leader succeeds in de- stroying the law which has given those black Americans access to the ballot boxes? It is not only that it will be precisely the same good faith that was experienced before 1965.

Mr. Chairman, the gentleman from Connecticut (Mr. Meskill) took exception to an earlier suggestion I made that one should look at the players in deciding which side to support in this controversy. With all due respects to my dis- tinguished colleague from Connecticut, I think it is appropriate to keep him in mind as one I look to for guidance in evaluating civil rights legisla- tion.

I must say when I see the gentleman from Ohio (Mr. Seiberling) and the gentleman from New York (Mr. Celler) opposed by the coalition of the minority leader and the gentleman from Louisiana (Mr. Waggonner), I am really in no doubt about who is for racial justice and who is against it.

I urge rejection of the Ford substitute. Its passage would represent the first step backwards in a century in civil rights legislation.

Mr. Chairman. The Chair recog- nizes the gentleman from New York (Mr. Celler) to close debate.

Mr. Celler. Mr. Chairman, what we want to do with reference to this amend- ment is to prevent color voting. We want voting to be color blind.

Mr. Chairman, the Attorney General can go anywhere in the country he chooses and attack voting discrimina- tion. Under the 1965 act he is authorized to institute suits to protect against in- justice to voters in amendment suits. But not a single suit has been started under that provision of the law. We spe- cifically asked if he had started any suits and he said, "No."

Therefore, Mr. Chairman, the decision is plain that there has been voting dis- crimination in the areas where the trig- gering device does not apply. Therefore, as I see it, there is no need to change or alter the triggering device and adopt the substitute offered by the gentleman from Michigan (Mr. GEALD R. FORD).

Mr. COMER. Mr. Chairman, for nearly 5 years seven once sovereign States have not prevailed in court by the Federal Government as if they were conquered provinces.

An unprecedented and grievous inva- sion of the sovereignty of seven States out of the 21 States in the country at large that had some form of literacy test for voters in 1964. This deliberate dis- crimination was tailored, through a com- pletely arbitrary, contrived 'automatic triggering in these districts' so that only seven States located in one region of our coun- try. Although this "trigger" was based on conditions that prevailed in 1964 that no longer prevail, legislation is pending before the House to withdraw, expand and compound this inequality.

If this bill reported by the House Judi- ciary Committee should be adopted, a Negro in New York will continue to be subjected to a literacy test while a Negro in Mississippi will not.

Its passage will mean that a Negro in one North Carolina county will continue to take a literacy test while a second Negro going a mile away in another North Carolina county will be exempt from such a test.

This is ridiculous. If the Federal Gov- ernment is going to ban literacy tests, why should this not apply in all States?

The distinguished chairman of the Judiciary Committee attempts to brush this question aside by asserting that there is no discrimination in voting out- side the States covered by the 1965 act. And I say to the chairman of the Subcommittee No. 5 of the House Com- mittee on the Judiciary the following paragraph appears:

Consider the 1968 voter turnout in the New York ghettoes. In the core ghetto of Harlem, Bedford-Stuyvesant, the South Bronx, and Brownsville-Ocean Hill, six nearly all-Negro assembly districts (55th, 36th, 70th, 72nd, 77th, and 78th) cast an average of only 18,000 votes in 1968 despite 1960 Census eligible voter population of 45,000-55,000. On average, less than 25,000 voters were reg- istered in these districts.

On the same page of the hearings Mr. Celler acknowledged that parts of Bedford-Stuyvesant, Ocean Hill, and Brownsville were in his district.

On the other hand, in the Fifth Mis- sissippi District of 16 counties five coun- ties are reported to have 100-percent nonwhite registration. Only four coun- ties are below 50 percent, ranging from 45.1 to 49.9 percent. This information comes from a U.S. Civil Rights Commis- sion report called "Political Participa- tion—1968."

Further, on page 278 of the hearings appears a statement that a higher per- centage of Negroes voted in South Caro- lina and Mississippi than in Watts or Harlem—245,000 more people voted in Mississippi in 1968 than in 1964.

In the light of these recent figures how can anyone defend the subcommittee's proposal to broaden and make even more harm the patent in- equality of the 1965 act?

If 1968 is substituted for 1964 in the arbitrary formula for coverage under the Voting Rights Act, several most interesting facts and possibilities arise:

First. Only Georgia and South Caro- lina had a vote in the 1968 election of 50,000 Negroes. If those two states now under the original act would no longer be covered.

Second. Several nearly all-Negro as- sembly districts in New York and possibly in many other Southern cities will fall to meet the standards set in section 4(b) of the 1965 act. It would be found that some had less than 50 percent of the persons of voting age registered on November 1, 1968, and that some voted less than 50 percent of such persons in the 1968 presidential election.

Maybe it was the possible consequences of such a speculation that prompted the distinguished chairman of the Judiciary during the hearings:

Will you agree that the proposal offered in this amendment by the Administration and the distinguished chairman and his other colleagues will go into every nook and cranny in every State to supervise—and that it would be a waste of time and money in the election and the procedures attendant there- upon, in every State of the Union?

Do you think another Congress would stand for such an intrusion in every State of the Union?

This cry of outrage, which will be found on page 246 of the hearings, is very revealing in several respects:

First, it acknowledges, possibly uncon- sciously, the real nature of the whole voting rights proposal. The only conclusion I can draw from this quota- tion is that the distinguished chairman feels that, while Northern and Western Congressmen, the attempt to in- vade the sovereignty of Southern States, they would not stand for such an intru- sion in their own States, and this would make passage of a new voting rights bill "extremely hazardous." The position of the distinguished chairman would seem to reflect upon the sense of justice of our colleagues from the North and the West.

Second, it puts into words, possibly better than I could, the reaction of many of us who feel that Southern States feel toward legislation authoriz- ing the Attorney General, whoever he may be at the moment, to "go into every nook and cranny" of the States to su- pervise the registration and election and the procedures attendant thereupon.

The gentleman from New York has made a more persuasive argument than I could against this whole concept of treating Negroes in Southern States as if they were conquered provinces.

I cannot believe that our colleagues from regions outside the South subscribe to a policy of unequal treatment by the
Federal Government of States and citizens of these United States.

AN ALTERNATIVE

On the other hand, the administration bill, H.R. 12065, has a paramount virtue: it utilizes a nationwide approach, thereby treating every State and every citizen, wherever he may reside, equally.

In brief, this bill has the following provisions:

First. A nationwide ban on literacy tests until January 1, 1974.

Second. Nationwide restrictions on residency requirements for presidential elections.

Attorney General to have nationwide authority to dispatch voting examiners and observers.

Fourth. Attorney General to have nationwide authority to start voting rights lawsuits to freeze discriminatory voting laws.

Fifth. President to appoint a national advisory commission to study voting discrimination and other corrupt practices.

Whether one subscribes in full to each and every one of these provisions, certainly one must concede that it strives for equality, a very worthy objective that does not characterize the Judiciary Committee's bill.

WELL-KNOWN FIGURES AND HEARSAY

I want to comment very briefly on some arguments made in support of the committee's bill, H.R. 4249.

When all other arguments fail them, the proponents refer to a study of the University of Michigan entitled "Political Participation." They present its "findings" as gospel truth, whereas even the most cursory perusal of this publication reveals that its conclusions are based upon out of date or completely unofficial figures and hearsay "facts."

This questionable basis is made clear by the following:

The publication was issued in May 1968, before conventions were held and before congressional and presidential races.

It uses 1960 census figures and figures furnished by unofficial and biased organizations. One example of its sources is Newsweek, September 1967.

The footnotes show plainly the hearsay nature of various charges made.

APATHY AND PRESSURE ORGANIZATIONS

Finally, I would raise this question: How does one explain an average turnout of 18,000 voters in 1968 in nearly all Assembly districts in New York City that had an eligible voter population according to the 1960 census of 45,000 to 55,000? Or a 12-percent turnout in a District of Columbia School Board election.

As indicated above, the figures of the 1960 census are not up to date. But does that explain the low turnout? Or is it apathy? Or possibly lack of organized opposition, such as the NAACP or the SCLC?

Is the real reason for a low turnout in New York City different from a low turnout in Mississippi in 1964?

Mr. Chairman, I am discussing the proposition that the proponents of this bill are advocating reminds me of my knowledge of history following the unfortunate fratricidal strife between the States and the aftermath thereof. I recall that the Congress controlled at that time, by the so-called North which had prevailed in that strife, made fateful speeches and attempted, in the absence of the representatives of the Southern States, to enact legislation to punish the Southern States. As I have listened to this debate, I have been impressed by the continuous reference to the South as the aggressor in denying this bill would provide a tool of the South to the United States. In fact, as the debate progressed and some of my so-called northern friends addressed the House, I was struck by the bulk of the days of punitive legislation we had Thaddeus Stevens instead of some of these present-day legislators.

I have already attempted to show the lack of consistency in the positions taken by States under the constitution of this iniquitous bill. But I was amazed when I heard my friend and colleague, a member of my committee, the very able and eloquent gentleman from Illinois (Mr. Anderson), raise a question of the constitutionality of making his administration's bill the law and I quote him, as follows:

I think there is grave constitutional doubts as to whether or not you can simply ban these tests all over the country without any reference at all to whether or not they have ever been used as a matter of fact to attempt to discriminate against somebody in voting because of his race or because of his color.

Knowing him as I do, as a student of the law and the Constitution, I repeat, I was amazed that he should take such a position. Conversely, I think the House should reject this bill, because I think the present law, which he desires to perpetuate—namely making the provisions of the law applicable only to a few States or its citizens, would raise the question of constitutionality, the same as continuing it applicable to all the States.

Mr. Chairman, and that brings me to another point. I asked my friend the very distinguished gentleman from New York (Mr. Celler) to bring before my Committee on Rules requesting a rule to bring the bill to the floor, when the unfortunate War Between the States was going to end. We in the South, in spite of that strife of more than a hundred years ago, are members of the Union. Whatever might have been the merits of the position of the Southern States, we are now members of the sisterhood of the States, and desire to continue to be so. It would seem to me that, after more than a century, this division should end. This is regional legislation aimed at a particular section of the country, and it is not in line with the desire to have a reunited country. Regional legislation is divisive. And, certainly with all the problems that confront us, both on domestic and international issues, we should be united. Therefore, Mr. Chairman, I desire the further efforts to divide this country by a continuation of this type of legislation.

Finally, Mr. Chairman, while I do not subscribe to doctrine, as set out in the administration's bill providing for repeal of literacy tests in any or all of the States, I do feel that if it is to be applicable to a portion of our States, then it should be made applicable to all.

Therefore, I support the bill advocated by President Nixon and sponsored by the able gentleman from Michigan, the minority leader, but I must confess that I do so on the basis that it is the lesser of evils.

The CHAIRMAN. The time of the gentleman from New York has expired. All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. Gerald R. Ford).

The question was taken; and the Chairman announced that the noes appeared to have the majority.

Mr. GERALD R. FORD. Mr. Chairman, I demand a roll call.

Tellers were ordered, and the Chairman appointed as tellers, Mr. Gerald R. Ford and Mr. Roscoe of Colorado.

The Committee divided, and the tellers reported that there were—as 189, noes 165, and the substitute amendment was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose, and the Speaker having resumed the Chair, Mr. BOLLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4249), to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices, pursuant to House Resolution 714, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

PARLIAMENTARY INQUIRY

Mr. Celler, Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. Celler, Mr. Speaker, I am sure that Members may not know what the status of the bill will be, if the substitute bill is defeated on rollecall vote.

The SPEAKER. In response to the parliamentary inquiry, if the situation arises, this side of the House will order this bill reported out of the Committee on the Judiciary.

The question is on the amendment.

Mr. Celler, Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas, 208, nays 204, not voting 21, as follows: [Roll No. 316]

YEAS—208

Abbeit

Adams

Adair

Adler

Alex

Anderson

Tenn.

Anderson, Ala.

Arends

Ashbrook

Ashland

Ayres

Belcher

Berry

Beverly

Blackburn

Blanton

Blythe

Bow

Brown

Burleson

Burk

Burroughs

Burton

Bush

Byrne, Wis.

Cabell

Caffery

Caffey

Camp

Carter

Casey

Cederberg

Chapman

Chappell

Clancy

Clayton

Collins

Colmer

Collins

Cory

Cudahy

Culver

Dan H.

Dawkins

DeKalb

DeLay

Deaver

Denniston

Derby

Drake

Durrant

Ecklund

Eisenhower

Ells

Elmore, Ky.

Endicott

Endicott

Fellows

Ferschweiler

Fitch

Fitch

Fivenson

Ford

Ford

Fortney

Foster

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Forrest

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Mr. CORBETT changed his vote from "nay" to "yea." The result of the vote was announced as above recorded.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken, and the Speaker announced that the ayes appeared to have it.

PARLIAMENTARY INQUIRY

Mr. EDWARDS of California. Mr. Speaker, a parliamentary inquiry: has a motion to recommit been made?
CONGRESSIONAL RECORD — HOUSE

December 11, 1969

H.R. 4560. An act for the relief of Sa Cha Bae.
H.R. 5133. An act for the relief of Pagona Anomerianaki.
H.R. 10136. An act for the relief of Lidia Mendola; and
H.R. 11509. An act for the relief of Wylo Pleasant, doing business as Pleasant Western Lumber Co. (now known as Pleasant’s Logging and Milling, Inc.).

The message also announced that the Senate had passed with amendments in which the concurrency of the House is requested, a bill of the House of the following title:

H.R. 13270. An act to reform the income tax laws.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 13270) entitled "An act to reform the income tax laws, request a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Long, Mr. Anderson, Mr. Gore, Mr. Talmadge, Mr. Bennett, Mr. Curtis and Mr. Miller to be the conference on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 13765) entitled "An act making appropriations for the legislative branch for the fiscal year ending June 30, 1970, and for other purposes;" and for other purposes.

The message also announced that the Senate agrees to the House amendment to the Senate amendment numbered 37.

SUPPLEMENTAL APPROPRIATIONS, 1970

Mr. MAHON, from the Committee on Appropriations, reported the bill (H.R. 15209) making supplemental appropriations for the fiscal year ending June 30, 1970, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate on this measure be limited to not exceed 30 minutes, the time to be equally divided and controlled by the gentleman from Ohio (Mr. Low) and myself.

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

There was no objection.

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

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 15209, with Mr. O'Hara in the chair.

The Clerk read the title of the bill.

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

The CHAIRMAN. Under the unanimous consent agreement, the gentleman from Texas (Mr. Mahon) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. Bow) will be recognized for 30 minutes.

The chair recognizes the gentleman from Texas.

Mr. MAHON. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. Gubser).

(By unanimous consent, Mr. Gubser was allowed to speak out of order.)

SUBcommittee investigation of mylar incident

Mr. GUBSER. Mr. Chairman, I am currently serving as the Majority Leader of the Investigating Subcommittee of the Armed Services Committee, which is looking into the Mylar incident, and reporting of events connected with the so-called Mylar incident. In order to be impeccably responsible and completely objective, we as members of the committee have made no statements to the press because we have not heard all the evidence.

Today, on the first page of the Evening Star, I read an article by James Doyle which reads as follows in part:

A helicopter pilot has told members of the House Armed Services Committee that he trained his guns on American soldiers.

Later in the article it says:

He told the congressmen that when he landed he got in an argument with the platoon leader on the scene.

Mr. Chairman, I have been present at every single meeting of these hearings, and I can tell you on my honor as a member of the U.S. House of Representatives that these statements are not true.

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

Mr. GUBSER. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, as one