Resolved, That there shall be printed, concurrently with the press run, for the use of the House Document Room for House floor distribution, two thousand five hundred additional copies of the report of the Committee on Rules accompanying H.R. 17654, a bill to improve the operation of the legislative branch of the Federal Government, and for other purposes.

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

There was no objection.

A motion to reconsider was laid on the table.

CALL OF THE HOUSE

Mr. GROSS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. ALBERT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

Mr. WOOLERY. Mr. Speaker, the following Members failed to answer to their names:

[Roll No. 174]

Alexander
Baring
Barriage
Becque
Buchanan
Busch
Chisholm
Clark
Collins
Corman
Crow
Cramer
Dodd
Dawson
Dent
Dukakis
Eldridge, La.
Eldorado
Engle
Fierro
William D.

The SPEAKER. On this rollcall 376 Members have answered to their names.

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

EXTENDING VOTING RIGHTS ACT OF 1965

Mr. MATSUNAGA. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 914 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 914

Resolved, That, immediately upon the adoption of this resolution, the bill (H.R. 4249) to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices, with Senate amendments thereto, be, and the same hereby is, taken from the Speaker's table, to the end that the Senate amendments are, and the same are hereby, agreed to.

The SPEAKER. The gentleman from Hawaii is recognized for 1 hour.

Mr. MATSUNAGA. Mr. Speaker, I yield the gentleman from California, Mr. Smirres, 30 minutes, pending which I yield myself 3 minutes.

Mr. Speaker, House Resolution 914 presents a very simple issue to this House; that is, whether or not we should agree to the Senate amendments to H.R. 4249, a bill to extend the Voting Rights Act of 1965.

The basic and real question, however, is whether or not the Voting Rights Act of 1965 should be extended beyond its present statutory life.

If we fail to adopt House Resolution 914 today it will mean the demise of the Voting Rights Act of 1965 on August 6, 1970.

I have no doubt in my mind that unless House Resolution 914 is adopted by this body to terminate the life of that Act on August 6, 1970, the Congress will agree that unless we act favorably on this resolution today the Voting Rights Act of 1965 will have come to an end on August 6, 1970.

Generally speaking, the Senate amendments in fact improve upon the House bill. Even a constitutional authority such as the gentleman from Virginia (Mr. Pooff) testified before the Rules Committee that the Senate amendments do in fact make that bill more workable.

There is only one difficult question posed by the Senate amendments, that involving the extension of voting rights to citizens 18, 19, and 20 years of age.

The principal objection is based on the contention that the amendment runs contra to our Federal Constitution. It is said that as Members of Congress we took the oath upon accepting the responsibilities of our office that we would uphold the Constitution of the United States and that a favorable vote for this particular amendment would be tantamount to a violation of that oath. I, too, Mr. Speaker, took that oath and have no intention of violating it. I have argued just as firmly as those who hold the opposite view, that the 18-year-old enfranchising amendment is fully within the power of Congress to enact without violating the provisions of the Constitution.

The Supreme Court recognized this congressional power in the case of Katz enbach against Morgan in 1966 when it upheld a provision of the Voting Rights Act of 1965 which banned literacy tests as voting qualifications. This power could constitutionally be extended to lower the voting age to 18.

Two of the Nation's leading constitutional authorities hold this view and so do dozens of other experts on constitutional law. Prof. Paul Freund of the Harvard Law School and Archibald Cox, former Solicitor General under Presidents Kennedy and Johnson and professor of law at Harvard Law School, both of whom have had the great privilege of having as my teachers, have expressed the view that article 5 of the 14th amendment grants to the Congress the right to legislate in this area.

As in any other question of constitutional power, sincere and well-intentioned minds can and will differ on this issue. The Supreme Court is duly designated by the Constitution as the final arbiter on questions of constitutionality. Let us, therefore, carry out our responsibilities as Members of Congress and legislate as we deem proper and let the Court decide whether or not we acted beyond our constitutional authority. Let us do now what we think is right.

Speaking now on the merits of the issue, Mr. Speaker, I think the minimum age requirement of 21 years is both arbitrary and archaic. The use of '21' as an indication of adulthood and maturity originated during the medieval times when it was generally believed that a male at 21 was old enough for literally bearing the weight of arms and armor. When we have reduced the age of bearing arms to 18, we have kept the age for voting at 21. Surely, this discrimination was not intended by Congress. It is noteworthy in this connection that approximately one-half of Americans killed in combat in Vietnam fall within the age group of 18 to 21.

With the knowledge explosion of recent years working in his behalf, the young person of 18 today is just as fully qualified to vote as an adult was when the age minimum was set. Our youngsters today are much more sophisticated in political matters than we were at their age. I am confident that the 18 year olds of today would make as intelligent voters as did 21 year olds a decade ago.

Furthermore, by extending the right to vote to our 18-, 19-, and 20-year-olds, we would be showing visible recognition of the national crisis in confidence in our institutions and system among our youth. We would be encouraging and strengthening the position of those who want to work within the system rather than against it.

Mr. Speaker, as I stated earlier, unless House Resolution 914 is adopted today, the Voting Rights Act will expire on August 6 of this year. It cannot be denied that the act has been good for the Nation. It has not only improved voting rights of a million black Americans to register to vote in States and jurisdictions which would not have permitted them to register otherwise. During its short lifetime, the act has resulted in a jump from 92 percent to 52 percent of black citizens of voting age. The accomplishments of the Voting Rights Act of 1965 have indeed been
greater than expected, but it is clear that we are still a long way from the goal of equal enfranchisement for all citizens regardless of color, and we have been extremely effective. We do indeed have a good thing going. Let us keep it going. Let us vote to adopt House Resolution 914, the Matsunaga resolution.

Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, the background of the matter is that we are considering today the fact that the House Judiciary Committee approved a Voting Rights Extension Act that is almost made it possible to substitute a bill in its place which is known as the "administration bill" and, more commonly, perhaps, known as the "Ford bill." The House passed that measure and it went to the other body. The Senate struck the entire House bill and placed it in an amendment. The amendment had three titles. Titles I and II have to do with the Voting Rights Extension Act. Title III has to do with the Senate's voting provision. When that bill came back to the House and went to the Speaker's desk, the normal procedure would be that a conference would be requested between the House and the Senate. However, in this instance that was not done. The distinguished chairman of the Committee on the Judiciary, the distinguished minority ranking member and others felt that this would not be the advisable thing to do. The gentleman from Hawaii (Mr. MATSUNAGA) then introduced House Resolution 914. The Rules Committee approved this resolution which, if adopted, will take the bill from the Speaker's table, approve the Senate amendment, and send it to the President.

I introduced House Resolution 1048 which required the bill to go to a conference. I brought this to the attention of the Rules Committee in executive session and they turned it down and approved House Resolution 914.

Thus the parliamentary situation is this: If we are going to be able to send the bill to conference the previous question has to be cut off, the resolution—House Resolution 914—to be had with appropriate language to send it to conference. I have that amendment prepared, and I am prepared to offer it if the previous question on the resolution—House Resolution 914—is voted down.

There are a number of differences of opinion. One has to do with whether or not the act definitely expires on August 6, 1965. The gentleman from New York (Mr. Celler) has advocated that time limit, and the resolution has to be reenacted every two years. He believes that this would expire. The gentleman from Virginia (Mr. Poff) states that there are 17 parts to the original act, that 17 of them are permanent law, and only two of them could expire. However, the legal situation is such that the Attorney General could still proceed with cases whereby the act will not expire on August 6.

If that is the case, it seems to me that, there would be plenty and ample time to consider this measure in conference, and thereby the Members would have a right to vote on the conference report rather than just simply voting this up or down today.

The next problem has to do with the 18-year-old voting rights; whether or not this should be done by Congressional action or by constitutional amendment. Everyone has an opinion on this. The deans of the law schools, constitutional lawyers, and I suppose every Member in this particular body has an opinion on this. But we are not the Supreme Court of the United States, and I do not believe we can express all the opinions that we want to, but they will not have any effect when the decision is made by the Supreme Court.

The gentleman from New York (Mr. Celler) testified that he was against the proposal to do it in this manner because it would be unconstitutional. He felt the Supreme Court would take speedy action to declare it to be unconstitutional, but that, too, is an opinion.

Mr. Speaker, it seems to me that this procedure is wrong. I think the people in the various States should have the right to determine whether or not they are going to have bills applicable to 18-year-olds and that the States do now permit this. Some States have turned it down. Some have turned the provision down on me believe more than one occasion. And this year on the November ballot there are a number of States that have that particular provision on their ballot.

It seems to me that that is a right which the people have, and that we should proceed according to the Constitution, propose an amendment, and present it to the people and the State legislatures, and then let them determine it.

I am not arguing whether they should or should not be permitted to vote, or whether or not they are constitutional. I am arguing procedure. I think we, the Members of this most distinguished legislative body in the world, should at least proceed in accordance with an orderly fashion, and have a conference and then have an opportunity to vote the bill up or down. Accordingly, I ask that you join with me in voting down the previous question, and accepting the amendment so that it can go to conference.

Just one final point, if I may: although the Senate bill is one amendment in total, there are three titles to it. The first two, as I mentioned, have to do with voting rights, and the third has to do with 18-year-olds. And if in the conference, the gentleman from New York (Mr. Celler) and the gentleman from Ohio (Mr. McCulloch), and others on both sides, on House in House amendments, extend the time limit, the managers on the part of the House can be instructed to accept titles I and II, and then simply confer or have a conference on the voting rights for 18-year-olds, and they should be able to settle that in a matter of one or two meetings.

So I urge the support of the Members in voting down the previous question.

Mr. MATSUNAGA. Mr. Speaker, I yield to the distinguished chairman of the Committee on the Judiciary, the gentleman from New York (Mr. Celler) 8 minutes.

Mr. Celler. Mr. Speaker, the Voting Rights Act of 1965 has made it possible for over 1 million blacks to register to vote and has made it possible for approximately 500 blacks to attain elective office.

The Voting Rights Act is finally making the promise of the 15th Amendment of the Constitution—"the right of all citizens of the United States to vote shall not be denied or abridged by the United States or any State on account of race, color, or previous condition of servitude"—a reality.

It avails us little indeed to cleanse our polluted air and polluted waters, if we allow racism to pollute our political system.

The Voting Rights Act of 1965 did much to clear the political atmosphere.

If the Voting Rights Act is not extended, the resumption of literacy tests and similar devices would occur. The wholesale reregistration of voters would be attempted which would erase all of the gains that have thus far been realized.

There would be gerrymandering of black areas.

There would be sudden changes made in the places for people to vote and sudden changes in the time of casting that vote.

The Attorney General would be denied the authority to appoint Federal examiners and to register voters and to assign Federal observers to monitor the conduct of elections.

Mr. Speaker, if the Voting Rights Act is not extended, then the existing protections against manipulative changes in the voting laws will be eliminated.

Federal review by the Attorney General or the courts will no longer be a condition precedent to enforcing election law changes.

Sweet reasonableness does not exist unfortunately in some quarters to insure the freedom of the ballot. Indeed unconstructed segregationism prevails in many areas.

I have not to point out to you my good friends that a vote against ordering the previous question is tantamount to a vote against the extension of the Voting Rights Act.

If there is any change in the bill, the bill then goes to conference and there, I can assure you, there would be the death knell of the bill.

Why do I say that? I say that because of my knowledge of what would happen in conference, and I know who the conferees would be. If this bill goes back to the other body, then this bill is as dead as that flightless bird called the dodo.

Over in the other body whether he be in the committee or on the floor—and I know whereof I speak—the gentlemen there would temporize, hinder, saunter, opillate, prolong, proerogue, procrastinate, and in other words, they would filibuster.

Mr. Speaker, the act expires 7 weeks from now. If this is a short time—and I know whereof I speak—the gentlemen there would prolong, hinder, saunter, opillate, prolong, proerogue, procrastinate, and in other words, they would filibuster.

The bill would be like the ferocious bull that goes into the arena. The bull goes in alive, all right—but we know that...
June 17, 1970

CONGRESSIONAL RECORD—HOUSE

bama, Georgia, Louisiana, Mississippi, South Carolina, and Virginia will be free to petition the court for exemption beginning on August 7. For the past 5 years they have been prohibited by the act from using the court as a qualification to vote. Thus, their inability to vote by court order is assured if the previous questions voted down and the bill would go to conference.

The statute is explicit—unless the Attorney General determines that such tests or devices have been used during the preceding 5 years for the purpose or effect of denying or abridging the right to vote on account of race or color, "he shall consent to the entry of such judgment." Although the actual order of the court may not be rendered until a later date, the legal steps for producing such exemption can begin on August 7, only some 7 weeks away.

A vote against the previous question is a vote against extension of the Voting Rights Act.

Any further delay in enacting an extension of the Voting Rights Act spells the end of its protections.

Mr. Speaker, no duty weighs more heavily on the Members of this Congress than to protect the right to vote from interference and intimidation in the 1970 presidential election. If the final action to extend the 1965 Voting Rights Act is delayed any further—the real victims will not be 18-, 19-, or 20-year-olds—or those citizens who move from one State to another on the eve of a presidential election. The real victims will be black Americans who have been encouraged to participate in the electoral processes of this Nation—those citizens who have been promised the fulfillment of their constitutionally protected right to vote.

A further delay in extending the act will blot out protections the Congress enacted 5 years ago. It will shatter legitimate dreams and aspirations. It will mark 1970 as the year in which the Congress dismantled the most effective civil rights protection yet enacted. It may encourage the return of all of the undesirable practices that were precipitated by voting restrictions based on race or color.

I urge my colleagues to support extending the previous question and to support House Resolution 914.

Mr. Speaker, H.R. 4249, the voting rights extension bill, as amended by the House, was approved on December 11, 1969. The bill then was amended and approved by the other body on April 2 of this year. It contains unanimous consent to take the bill from the Speaker's table with the Senate amendments thereto and concur in the Senate amendments. That unanimous-consent request was objected to. On the same day I wrote to the chairman of the Committee on Rules requesting that that committee grant a rule of the type embodied in House Resolution 914, and also requested a hearing before the committee at the earliest convenient date.

It may help if I attempt briefly to set out the major provisions of the Senate version of the bill. First, in two areas the Senate amendments closely parallel provisions approved by the House. These are:

First, a nationwide ban on literacy tests and similar devices. The Senate version imposes this ban 5 years until August 6, 1975, in all areas not presently subject to the literacy test prohibition under the Voting Rights Act. The House version banned such tests until January 1, 1974. This additional 5 years, which was a major demand of the Senate, is an important additional protection against the use of literacy tests in the conduct of elections. If the act were not extended, the existing protections against manipulative changes in voting laws would be eliminated. Section 5 of the act requiring Federal review would no longer be a condition precedent to enforcing election law changes.

On previous occasions I have ex-
Mr. Speaker, I am convinced that the provisions of the Senate amendment can be subjected to prompt and thorough court challenge. I am also persuaded that a final court decision on the validity of the statutory voting age reduction will be made in time to affect the very elections occurring in 1971 to avoid calamity and chaos in our electoral process.

Suit could be instituted directly in the Supreme Court. A State could bring a suit where the court is given the powers of enforcement under the Act—original jurisdiction is founded under article III, section 2, South Carolina against Katzenbach.

A suit also could be brought in a lower Federal court by a potential voter under 21 who is denied registration; or a voter over 21 if those under 21 are granted registration. In either case a three-judge court would be convened with direct appeal to the Supreme Court.

In any case, a justiciable controversy would be present even before the effective date of the voting age reduction. See Pierce v. Society for Democratic Education in Higher Education, 384 U.S. 22 (1966). There, the Court affirmed injunctions restraining the Governor of the State of Oregon from threatening or attempting to enforce a law precluding private school education. The Court said:

"The suits were not premature. The injury to appellants was present and very real, not a mere possibility in the remote future. If no relief had been possible prior to the effective date, the injury would have become irreparable. Prevention of impending injury by unlawful action is a well recognized function of courts of equity. (At 237.)"

In short, I believe that the national interest will best be served if the House promptly accepts the Senate amendment. I urge my colleagues to approve House Resolution 914 to permit House concurrence in the Senate Amendments to H. R. 1740.
June 17, 1970

CONGRESSIONAL RECORD—HOUSE

20163

gues—but cannot set age qualifications?

If we can take legislative notice of the facts that rationally support our setting the literacy and residency qualifications for voting, then we can do the same with regard to age qualifications. I feel that there is no special reason why there should be a different standard of behavior in accordance with age than is applied to other qualifications.

It is significant to note that as the House has, with its legislative rule establishing age qualifications, the alertness of the nation and the importance of the right to vote in the democratic process.

Allowing extension of the right to vote in the 14th amendment to those individuals who are resident in the United States, the age qualifications embodied in the 14th amendment is not a constitutional one. It is not a question of whether or not one has the right to vote, but rather whether one has the right to participate in the process of democracy.

One of the most important arguments for extension of the right to vote is the fact that we are all citizens of the United States and have the right to participate in the government of our country. This right is not limited to those who are able to vote in the manner prescribed by the Constitution.

The 14th amendment also provides for the protection of the rights of those who are qualified to vote. It guarantees to all citizens the equal protection of the laws and prohibits the denial of any person's right to vote on account of race, color, or previous condition of servitude.

There are those today who would deny this right to those who are of minority status. They argue that the 14th amendment is not sufficient to guarantee the rights of those who are of minority status. However, the 14th amendment, as well as the 15th amendment, provides for the protection of the rights of all citizens and does not discriminate against those who are of minority status.

It is important to remember that the 14th amendment is not a blanket statement of rights. It is a fundamental principle of democracy and is one that we must continue to work towards in order to ensure that all citizens have the opportunity to participate in the democratic process.
believe is the most important piece of domestic legislation we will consider during this Congress. Long before I became a lawyer, a member of the Committee on the Judiciary, and a public official sworn to uphold the Constitution, I can vote for H.R. 4249 with conviction that we are acting correctly. Whenever we undertake to legislate in a new area, there will be some question of our power to do so. But in this case, the language is there, in the 14th amendment—"Congress shall have the power." And the language is there in the Supreme Court cases:

It was for Congress, as the branch that made this judgment, to assess and weigh the various conflicting considerations... It is not for us to review the Congressional resolution of these factors. It is enough that we be able to receive a basis upon which the Congress might resolve the conflict as it did. (Katzenbach v. Morgan, 384 U.S. 641 (1966)).

Why should we tell the States what to do? Partly for the same reason that we tell them not to have a kingdom, or a dictatorship, even though the people of a State may wish to have it. But why should we tell the States what to do?—for the same reason that we tell them not to discriminate against black people or Mexican Americans or illiterates. The federal system was basically ordained that there will be voting and that the major conditions of voting will be determined as a matter of national policy.

Nor is there substance to the capacious charge that 18-year-old voting is some kind of "rider" to the Voting Rights Act. It is a very easy rider—because age, like race, residence, and reading, has a history of being used as an excuse to keep people from participating in the choosing process.

If the question of voting eligibility means something more than eligibility of a fraternity—then we have the obligation to remove all impediments that deny people the most fundamental blessing of liberty, and that keep the Voting Act from being perfect. The same law and logic that tell the states not to use race or residence or reading as the means of barring the voting door, compel us to limit the age discretion of the States. Are those who argue otherwise prepared to let a State use age 50 as a minimum for voting? Some States might desire such an option. The question is not whether age can be regulated—the question is what is the reasonable minimum age? Is it 21, the figure which was arbitrarily selected in medieval times as the age at which a squire could become a knight? Should that be the relevant measure of our Republic? Or is it 18, which so clearly separates the boy from the man, the girl from the woman?

And in any event is that not what Congress can find? Those who say 18 is too young in some States, who say they will change the draft laws to make 21 a minimum age for service? Are they prepared to say that all persons under 21 shall be treated as juveniles under the criminal laws? If we resolve doubts in favor of democracy, then 18-year voting should not be doubtful.

But the important thing about this bill, as amended by the Senate, is its breadth. For 3 years, and more, our country has been ripped and torn and shot at until some wonder if we can ever come together again as one people. That is the importance of this proposal to those very groups who are so alienated from our institutions. To the poor and illiterate, it says "yes, we want you to vote, too." To the blacks, it says "yes, we will keep faith with you, we want you to vote too." To America's future generation, it says "yes, we welcome your participation in our system."

This bill gives the disinherited a piece of the action; it gives the alienated a voice in shaping the institutions which they now criticize so harshly; it gives many Americans a stake in America's future which they do not have now. In short, it enfranchises the disenfranchised of America. It is needed to make more real the ephemeral notion that 200 million people can rule themselves.

This is a day of high hope. The great expectations of and for this country can be secured only if we would not only press their noses against the glass that excluded them as too black—or too dumb—or too young.

This bill can go a long way toward restoring respect for the country.

Mr. SMITH of California. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. McCLOY).

Mr. McCLOY. Mr. Speaker, I urge the House to concur in the Senate amendment for extending the Voting Rights Act of 1965.

There is nothing in the Constitution which restricts the Congress in taking the action which I hope the House will take today in assuring to 18-, 19-, and 20-year-olds the right to vote.

Nor is there anything which prohibits the Congress from outlawing literacy tests, or poll taxes, or which prevents the Congress from deciding that only Americans whose native tongue is English shall be entitled to vote.

The principle in all these areas of appropriate congressional action is the same.

The Supreme Court has recognized the validity of the latter principle in Morgan against Katzenbach.

The Attorney General has recognized the validity of this principle, and the President has urged us to embrace this principle in this bill, by banning literacy tests entirely.

I am suggesting that on the basis of the precedents and equity and good conscience we recognize this basic principle here, in accordance to 18-, 19-, and 20-year-olds the equal protection of the laws under the 14th amendment to the Constitution by permitting them to vote.

I am interested in this subject on the basis of its constitutional authority, and also on the basis of its justice. In supporting the right of the younger citizens to vote, I am confident that some of them have acted irresponsibly.

But that is a small minority of the more than 11 million citizens in whose behalf I am speaking. Among these 11 million persons most belong to the silent majority, and more than half are employed and are paying taxes; and 800,000 are housewives, looking after their own households and household budgets. An overwhelming majority of them are high school graduates.

Mr. Speaker, do we want to support the rights of these 11 million citizens to participate in the affairs of our representative republic by voting and electing? I believe we do.

What is the reason for recognizing original voting age as the minimum lawful age for voting? As the gentleman from Illinois (Mr. MINKA) said, it was at that age when he moved from one category in English law to another.

But today our young men are considered old enough—and strong enough to carry bullet-proof vests—and arms—when they are 18. So, the original reason for the 21-year-old minimum age is gone. Mr. Speaker, it would retain age 21 on some untenable constitutional or other basis. It is argued that if the Supreme Court holds the lowering of the voting age by legislation to be unconstitutional, these young citizens will feel frustrated and their hopes will be dashed. I reject that argument.

Deciding today in favor of concurring in the Senate amendments will give hope and confidence to our younger citizens. Allowing 18-year-olds 11 million people to participate in our support today.

So, also do the blacks and other disadvantaged citizens who will benefit from this legislation.

Mr. MATSUNAGA. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama (Mr. ANDREWS).

Mr. ANDREWS of Alabama. Mr. Speaker, the Senate amendments lower the voting age to 18. The amendment is in perfect accord with the 1965 Voting Rights Act, to which it is attached; both trample on the rights of the States.

It is hard to imagine that anything could possibly go wrong. And in fact, Congress has decided that they, and not the several States, can determine voting age qualifications. They make such a decision, in spite of article I, section 2 of the Constitution, which clearly states that the electors for the House of Representatives shall have the same qualifications as the electors of the most numerous branch of the State legislature.

The 17th amendment, which provides for the direct election of Senators, restates the point that the States, and not the Federal Congress, determine voter qualifications.

Since the power to change voting requirements belongs to the States, the only proper way to lower the voting age...
June 17, 1970
CONGRESSIONAL RECORD — HOUSE

is by constitutional amendment. Three amendments affecting voting qualifications have already been added to the Constitution.

In addition to the 17th amendment, the 19th amendment guaranteed women's right to vote, and the 24th amendment abolished the poll tax as a requirement for voting.

Proponents of a voting qualification change by simple statute base their case on an incredibly liberal interpretation of the 14th amendment. They contend that "equal protection of the laws," guaranteed by the amendment, are being denied those under 21 years of age.

Where would such logic end? If 18-year-olds were to enjoy equal protection of the laws, simply by not having the vote, what about 17-year-olds and younger? This pattern of thinking could lead to the abandonment of all age restrictions, as a denial of the amendment's equal protection clause.

The error in thinking that this amendment justifies changing the voting age by a simple act of Congress is plainly evident in the amendment itself.

Section 2 states: "The right to vote at any election for the choice of electors for President and Vice President of the United States ... is denied to any citizen of the United States who is not a resident of any State in the union, being twenty-one years of age, and citizens of the United States . . . the basis for representation shall be reduced.

It hardly stands to reason that the equal protection clause of the 14th amendment required to apply to lowering the voting age, when in its very next paragraph it specifies the 21-year-old requirement.

The rightness or wrongness of lowering the voting age is a matter of opinion, to which each Member of Congress is entitled, along with every other American, but it is not a matter for congressional statute.

If legislatures in three-fourths of the States choose to lower the minimum age for voting, it will be lowered nationwide, and the Constitution will suffer no damage.

Aside from the improper approach to changing the voting age, there is little evidence to prove that the idea has nationwide approval. Forty-six States now have the 21-year-old minimum, and some 20 States have considered and rejected teenage voting in the recent past. Eleven States will vote on the issue this year.

The question before the House today is, shall we junk the tried and true amendment process for a reckless alternative, born of emotionalism and political expediency? I should hope not.

Mr. MATSUAGA. Mr. Speaker, I yield 3 minutes to the gentleman from Oklahoma (Mr. ALBERT).

Mr. ALBERT. Mr. Speaker, the House of Representatives, on certain rare occasions, is required to make decisions of a far greater magnitude and of infinitely more significance than we do in our customary legislative activities. Today is such an occasion. In a few minutes, this body will be required to make an historic and momentous determination whether or not to extend the franchise to 18-year-olds.

The history of our Republic is a record replete with the continuing broadening of the franchise. Ours has been a chronic without parallel of the further implementation of democracy by the inclusion of an ever greater segment of our citizenry in the decision-making process. Our forebears were endowed with unique pragmatic political insight. They thus succeeded in accomplishing the greatest revolution, bloodless or otherwise, ever experienced by mankind, an effect into reality the democratic ideals of the Declaration of Independence. Swept into the dust bin of history were religious tests for public office, property qualifications for voting, the indirect election of U.S. Senators, and bars to voting because of sex, color, or ethnic origin.

Within the hour, the membership of the House will be tested on the fundamental proposition of whether or not we possess the requisite faith and in the democratic way of life equal to that of our predecessors. When the reading clerk calls the roll on the key vote, the motion ordering the previous question on House Resolution 914, the proposition being to admit 18-year-olds, cannot be evaded. Those who endeavor to equivocate that they are for the 18-year-old vote but insist that the cumbersome time-consuming constitutional amendment route be pursued, are effectively against extending the franchise to 18-, 19-, and 20-year-olds. Eminent legal scholars such as Professor Freeman of the Harvard Law School and Archibald Cox, former Solicitor General of the United States, are confident that the Congress has ample statutory power to legislate in this area. Our power stems from the Equal Protection clause of the 14th Amendment. The Senate has already voted 64 to 17 to grant 18-year-olds the vote by simple statute.

The constitutional amendment route is not under the present circumstances a viable alternative of congressional statutory action. All of us know that. There is absolutely no chance of getting such a constitutional amendment passed by the Congress and ratified by the necessary three-fourths of the States prior to the 1972 presidential election. I do not know, no one can certainly know, to what extent newly franchised 18-, 19-, and 20-year-olds might participate in the political process and vote in 1972. Neither do I know how those who do vote will vote. Personally, I do not really care. I am not a narrow voter. I ask: Should I be certain that these young people would vote Republican en masse, I would still earnestly and strenuously support their enfranchisement. I hold it to be so far in the realm of equity and justice. To inject a scintilla of partisanship into this matter would be degrading and do a grave disservice to our finest traditions.

Should the opponents of the 18-year-olds be called at this time to do their job, the encouragement of the votes of the 18-year-olds, will mean there will be no vote for the 18-year-olds and, of equal significance, there will be no extension of the Voting Rights Act of 1965. For if this legislation is sent to conference, the fate of any conference report in the other body is certainly not difficult to imagine. The Voting Rights Act, which has enabled millions of previously disfranchised Negroes for the first time to vote and participate in the political process, would then die in August at the very time when moderate Negro leaders are urging their people to eschew violent and nonlegal methods, we would in effect once more be slamming the door in the face of those who wish to operate through legal channels.

I would point out to the House, moreover, that the measure before us is not aimed at any one section. Rather, its aim is to protect the young people everywhere. The pending bill modifies the so-called trigger formula to make the 1965 act applicable to all States and counties in which less than 50 percent of the voting-age residents were registered or who participated in the 1968 presidential election. These provisions would extend coverage of the act to three Alaska districts; Apache County, Ariz.; Imperial County, Calif.; Elmore County, Idaho; Bronx, New York; Manhattan—Counties, N.Y.; and Wheeler County, Oreg.

The House, if it votes down the previous question on the resolution of concurrence, will have informed both the young and the Blacks that there is no place for them in the orderly political process.

Mr. Speaker, I have made my decision. I have faith in the future of the young people of this Nation. I favor protecting the voting rights of all our citizens regardless of race or color. I shall take my stand with democracy. I urge my colleagues on both sides of the aisle to do likewise in overwhelming numbers so that when historians write of this momentous decision, it may be recorded that the vast majority of the House of Representatives chose to take its stand on the side of freedom for the young and the future.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield to me in connection with the gentleman just said?

Mr. ALBERT. I yield to the gentleman.

Mr. LONG of Maryland. Mr. Speaker, I have here a list of 14 men from Maryland, chosen at random, who died in Vietnam, No. 2 this year. Of the 14, 10 are under 21 years of age. These young people of 18, 19 and 20 are the ones who are carrying the real burden of their country and are the ones who should have something to say about how it is run.

Mr. ALBERT. I thank the gentleman. Mr. LONG of Maryland. Mr. Speaker, I submit the names for the Record.

Air Force Sgt. Robert D. Walsh, 22, Dundalk.

Capt. James M. Atchison, 25, Frederick.


Army Pfc. Donn M. Lorber, 20, Brooklyn, Md.
Marine Cpl. Michael Soltsy, 19, Baltimore.


Army Spc. G. Blakneye, 20, Baltimore.

Pfc. J. Dastoll, 20, Chillum Terrace.

Army Pfc. L. Morgan, 20, Laurel.


Cpl. John L. Grimes, 21, of Forestville.

Spc. Richard S. Cunningham, 22, Spencertown.

Within the hour, Mr. Speaker, the House will be tested on the fundamental proposition of whether or not we retain faith in the democratic way of life.

Mr. SMITH of California. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Speaker, I want to begin by thanking the distinguished gentleman from California for yielding this time to me and say that many of us who had the opportunity to tour the college campuses became convinced that the overwhelming majority of our students and our young people were sincerely motivated about their concerns. They were, and they are very frustrated. They were also being encouraged to try to overthrow the system by the very vocal radical element. They were frustrated because they had no voice in decision-making and in decision-making that directly affected them more than any other group in the United States of America.

I do not think that they are going to understand, if we refuse to pass this, that there are grave constitutional questions. I have difficulty understanding also when there is about an equal division of expert authorities saying that this is constitutional. I have difficulty understanding why we should not let the Supreme Court decide. I heard one speaker say that the Rules Committee does not have the power to do this, and I think that is true.

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

Mr. RAILSBACK. I only have 1 minute left; otherwise I would be glad to yield to the gentleman.

Mr. Speaker, I want to say that is the responsibility of the Supreme Court. They must make that determination.

I would ask those Members who argue the constitutionality of the bill have said to me, "Well, how can you support this if there is any question about the constitutionality?" I would ask them, "Why did we support the District of Columbia crime bill in which there were serious reservations with reference to the question of constitutionality?"

I supported it.

Further, Mr. Speaker, what about the organized crime bill, S. 30, which is now pending before the House Judiciary Committee? It has been scathingly criticized because of the constitutional questions involved.

Mr. Speaker, I wonder how many Members will feel the same compulsion to vote against that measure because of many constitutional questions raised by it?

Mr. SMITH of California. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Illinois (Mr. ARENDs).

Mr. ARENDs. Mr. Speaker, I am not a Johnny-come-lately. I have been on the receiving end for well over 2 years in favor of the reduction in the voting age to 18, 19, and 20-year-olds. So, this proposition is not new to me. With the objective there is general agreement, the question at issue is whether or not we are going to achieve this objective. Are we going to proceed through the normal constitutionally acceptable process, followed at the time we gave the women the right to vote by an amendment to the Constitution, or are we going to follow a procedure that is simply politically expedient.

I do not presume to know all of the involved legalistic arguments. I have read several of the related cases and legal briefs. I have listened to the authorities that have been presented on the arguments, both pro and con. With all due respect to the legal profession, insofar as the lawyers in Congress are concerned, their art seems to be in finding, through their research, some support for a predetermined conclusion. At best there is grave doubt as to the constitutionality of lowering the voting age by statute. This in itself is sufficient reason to reject such a procedure as is here proposed. Why risk an election being declared invalid, with very serious consequences, when there is an established constitutional procedure about which there can be no questions. At best, Mr. Speaker, there is grave doubt—in the minds of the people, including the lawyers, as to why we even bring up the question whether or not the Supreme Court should or will act on this immediately.

Mr. Speaker, if one has sat as a juror in the courtroom, he has heard the judge say to the jury, "If there is reasonable doubt, then you have to find for the accused."

The established constitutional procedure has been followed many times in changing our constitutions, and twice on the voting rights proposition itself. Why should it not be followed at this particular time on the matter of reducing the voting age?

We regret to have to say that in the procedure now proposed a constitutional principle is being sacrificed today on the altar of political expediency. It is ironic that some of our colleagues who preach the "rightness" of our constitutional amendment fail to understand that the "rightness" is also recognized by States' rights and revitalization of State duties and responsibilities—and the place is full of them today—should be among those who are advocating the statutory procedure. I hope the other procedure that would give the people of the respective States a voice in this major change.

I repeat, I am for the right to vote for the 18-year-olds, but I want to do it in a constitutional way, and I think that would be the overwhelming choice of the American people.

Mr. SMITH of California. Mr. Speaker,

I yield 5 minutes to the gentleman from Virginia (Mr. POFF).

Mr. POFF. Mr. Speaker, with respect to the 18-year-olds voting issue I support a constitutional amendment, and if I were a member of the State legislature I would vote to ratify such a constitutional amendment.

I cannot support a Federal statute simply because I regard it as unconstitutional. Even if constitutional, however, it, would, it seems to me, be unnecessary for the Federal legislature to preempt the domain of the State legislatures.

Now, with respect to the Voting Rights Act—and this will be the graveram of my statement—I favor the House bill over the Senate bill. I think that the Senate bill is better than the present law. I would like that clearly understood by way of preface to the other comments I want to make.

Mr. Speaker, what troubles most Members is the fear that a conference might lead to a Senate filibuster which might frustrate extension of the Voting Rights Act before the August 6 terminal date. For two reasons, that fear is unrealistic. First, a conference might come about when the bill passed the Senate earlier. This is because even those Members who feel that the House version was superior to the Senate version understand that the Senate version is superior to the present law.

Second, a filibuster, even if successful, would not, as some fear, repeal the Voting Rights Act of 1965. Of the 19 sections of that act, 17 are permanent law and have nationwide application. The other sections, referred to as "trigger" sections and the "preclearance" sections, would "expire" on August 6 only in the sense that it could become inoperative with respect to the seven States which they cover.

All seven States would continue to be covered after August 6 and would remain covered until the law's escape mechanism had functioned. That mechanism does not function automatically. It is predicated upon activated which it will only if a covered State initiates a lawsuit in the District Court of the District of Columbia. The Federal rules of civil procedure give the Attorney General 60 days in which to file an answer. Thus, if a covered State sues on August 7, the earliest day the court could enter an escape order would be October 8.

Neither is an escape order automatic or mandatory. A covered State is entitled to escape coverage only after it has produced the evidence to prove that it has used no literacy test for voter qualification for a continuous period of 5 years. If the Attorney General presents evidence that the State used for escape in fact used a literacy test, notwithstanding suspension of that test by the Voting Rights Act, the court will refuse to enter an escape order; the State will then continue under escape coverage until it has brought another lawsuit and produced new evidence of innocence for a continuous period of 5 years beyond the date it last used a literacy test.
June 17, 1970

CONGRESSIONAL RECORD — HOUSE

20167

an escape order on October 8, the Voting Rights Act provided that the court will retain jurisdiction for a condition period of 5 years. At any time during that probationary period, if the State should attempt to reimpose a literacy test and use it discriminatorily, the court could immediately order the voter registration resumed with an order entering a new test or other discriminatory device.

Therefore, those who support the Voting Rights Act but feel that a Federal statute lowering the voting age to 18 is unconstitutional can vote to send this bill to conference without fear of emasculating the Voting Rights Act. I earnestly believe that a conference committee will report an extension bill which all can support enthusiastically. This will clear the path for prompt hearings on a constitutional amendment for 18-year-old voting. I will support such an amendment, and if it becomes a part of the State legislature, I would vote to ratify it.

I cannot vote for a Federal statute on 18-year-old voting, because I am convinced that it is unconstitutional. Such a bill will not permit me to argue the constitutional question. Accordingly, for the sake of argument, I will assume, without conceding, that Congress has the constitutional power to act by statute. But that is not to agree that it is wise to exercise the power. It is, I believe, unwise for three distinct reasons:

First, it is unwise because it would cast a cloud of uncertainty over 1971 elections. Even if the present Congress concludes and a judgment of constitutionality is rendered before January, it might come too late for voter applicants in voter registration periods preceding elections scheduled early in 1971. All elections, primary and general, legislative and municipal, and even popular referendums are covered by the proposed statute. Even if the new age requirement could be timed so that 18-year-olds would vote in some remote precinct, and if the result of the election might have been affected thereby, there could be chaos. If the election were a bond referendum, no lawyer could safely certify the bond issue.

Second, a Federal statute is unwise because it would tend to erode the Federal system. In the last 5 years, 20 States have rejected propositions to lower the voting age, one of them twice. This year, 15 States have the proposition on their ballots. For the sake of the Federal system, it is not for the Congress, even if it has the raw power to do so, to veto the will of half the States.

Third, a Federal statute with a built-in court test is unwise because it confronts the Supreme Court with an impossible dilemma. If it strikes down the statute, the Court will be accused of amending the Constitution by judicial fiat. If it declared the statute unconstitutional, the Court would be charged with frustrating the expectations of millions of 18-year-olds between the ages of 18 and 21.

It is, I repeat, unwise to expose the Court to such needless abuse. It is unwise because it perhaps disband the young men and women from our country at a time when they are already concerned about the broader gap between promise and performance.

The wise course, the safe course, the unchallengeable course, the tried-and-true course, is to amend the Constitution in the manner which the Charter itself provides.

Mr. MacLEOD. Mr. Speaker, most constitutional authorities share the view of President Nixon that a constitutional amendment is the only proper way by federal governmental action to give 18-year-olds the vote uniformly throughout the Nation. I have copies of a number of letters by professors of constitutional law, deans of law schools, and others supporting Mr. Nixon's position. I am inserting them in the Record:

UNIVERSITY OF MINNESOTA
Minneapolis, Minn., April 29, 1970.
Hon. Richard Nixon,
The White House,
Washington, D.C.

Attention: Mr. Leonard Garment.

Dear President Nixon: Tom Currier suggested that you might be interested in my views about the Section 5 power of Congress to change the voting age in all elections, State and federal, to 18 years. The arguments pro and con are well advanced in the two published letters coming from Bard and Yale and taking opposite positions, and need not be stated here.

My views on the constitutional issue is that it would be unwise to push the Section 5 power of Congress to "interpret" the 14th amendment that far at this time. While legislative interpretation is constitutional, I think the Congress ought to focus on the Section 5 powers of Congress to deal with serious evils beyond the normal scope of judicial action is a salutary power that I would like to see preserved. To select this power as proposed in the pending legislation could easily result in court opinion that would cripple its usefulness for later situations where it is really needed.

I suppose this reflects my view that the vote for 18-year-olds is not a pressing social problem that requires such a drastic and speedy remedy by the federal government to impose the 18-year age on state and local elections is a sufficiently major change from our distribution of power within the federal system that it should not be imposed by Congressional decision, but only by constitutional amendment.

Sincerely,

WILLIAM B. LOCKHART.

THE UNIVERSITY OF TEXAS AT AUSTIN,
AUSTIN, TEX., April 29, 1970.

Hon. Richard Nixon,
President of the United States,
The White House,
Washington, D.C.

DEAR PRESIDENT NIXON: I do not think that the Congress has power by statute to lower the voting age to 18. If one takes literally all of the language in Katzenbach v. Morgan, this Court held that it was unconstitutional to do so. I think that the Katzenbach case was incorrectly decided and therefore I have no desire to see it pushed as far as might be desirable to gain the ends of the present proposal legislation. An argument can be made that to bar persons from voting because they cannot read and write in English is an irrational distinction within the traditional equal protection doctrine. I do not think that argument can be considered in the case on voting necessarily must be arbitrary. There is no single specific day in the life of all citizens in which it can reasonably be said that they suddenly are informed members of the electorate though they were not so one day before. It is a problem in drawing lines and I think the clear meaning of Article 1, Section 2 of the Constitution is that these lines are for the states to draw.

It is my understanding, though, I do not have the materials in front of me, that several of the States that have recently lowered their voting age have chosen some age other than the age of 18 as the tendered age. I think that there is no mystic quality about the age 18 that makes it irrational for a State to refuse to allow 18-year-olds to vote.

The Constitution has carefully formulated provisions for the method of its amendments. I cannot believe that Section 2 of the Fourteenth Amendment permits those and allows the Congress to make drastic changes in our constitutional scheme simply by legislation.

Sincerely,

CHARLES ALAN WRIGHT,
Charles T. McCormick Professor of Law.

THE UNIVERSITY OF CHICAGO,
Chicago, April 20, 1970.

The President of the United States,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: A short time ago I responded to a request from Senator Kennedy for an opinion on the constitutionality of the bill providing a vote for persons who are 18 years of age. I am sending you a copy of which is enclosed, indicated my opinion that such legislation, however desirable, is unconstitutional.

The opinion was prepared on the assumption that the Senate may no longer be in a position to withdraw its approval. I therefore respectfully request of you that, should the legislation be passed by the Senate, the veto power on constitutional grounds. Unconstitutionality of legislation has been the classic ground for the exercise of the Presidential veto. I think it most appropriate in this case.

The States are clearly empowered by the Constitution to set the qualifications for voters at both State and federal elections. The Fourteenth Amendment authorizes Congress to enforce the exercise of this power by state legislatures in specifying electoral qualifications. The present age qualification can hardly be considered such an invalid classification. As a matter of judgment one might choose an age higher or lower than twenty-one. My own judgment would be that eighteen is constitutionally permissible. That judgment has been clearly delegated by the Constitution to the legislatures of the States.

The Constitutional protection of power so cavalierly as the pending bill threatens to do is, indeed, an exorbitant price to pay even for a desirable result. I hope that you will do your utmost to see that the Constitution is not treated so lightly.

Respectfully yours,

PHILIP B. KURLAND.
As constitutional lawyers—some of whom favor and some of whom oppose lowering the voting age, and some of whom regard it as an appropriate exercise of their constitutional and legislative powers gazette—our views can be considered as representative of the views of a large body of scholars and practitioners who are interested in the development of American constitutional law.

In American law schools, I am glad to submit this paper in my capacity as a professor of constitutional law and the author of a book on constitutional law widely used in American law schools. I am glad to submit this paper in my capacity as a professor of constitutional law and the author of a book on constitutional law widely used in American law schools.

In American law schools, I am glad to submit this paper in my capacity as a professor of constitutional law and the author of a book on constitutional law widely used in American law schools. I am glad to submit this paper in my capacity as a professor of constitutional law and the author of a book on constitutional law widely used in American law schools.

In American law schools, I am glad to submit this paper in my capacity as a professor of constitutional law and the author of a book on constitutional law widely used in American law schools. I am glad to submit this paper in my capacity as a professor of constitutional law and the author of a book on constitutional law widely used in American law schools.

In American law schools, I am glad to submit this paper in my capacity as a professor of constitutional law and the author of a book on constitutional law widely used in American law schools. I am glad to submit this paper in my capacity as a professor of constitutional law and the author of a book on constitutional law widely used in American law schools.

In American law schools, I am glad to submit this paper in my capacity as a professor of constitutional law and the author of a book on constitutional law widely used in American law schools. I am glad to submit this paper in my capacity as a professor of constitutional law and the author of a book on constitutional law widely used in American law schools.

In American law schools, I am glad to submit this paper in my capacity as a professor of constitutional law and the author of a book on constitutional law widely used in American law schools. I am glad to submit this paper in my capacity as a professor of constitutional law and the author of a book on constitutional law widely used in American law schools.
June 17, 1970

CONGRESSIONAL RECORD—HOUSE 20169

South Carolina v. Katzenbach). I accordingly hope that the political branches of our government will exercise their judgment to assure that the Amendment be drawn in such a way as to involve no unreasonable or invidious classifications. The Voting Rights Act of 1965, which is the major pillar of constitutional methods is followed in achieving the desirable goal of extending the vote. Respectfully yours,

GERALD GUNTER,
Professor of Law, Stanford University School of Law.

The UNIVERSITY OF CHICAGO, Chicago, Ill., April 20, 1970.

Dear Mr. President:

I should like to respectfully express my strong opposition to lowering the voting age by means of congressional legislation.

The Constitution, quite ambiguous in some instances, is rather clear on this matter. Article I, Section 2 and the Seventeenth Amendment leave no doubt that the states have the authority to determine who is eligible to vote even as regards federal elections. The Fourteenth Amendment prohibits invidious discrimination against the states. It is my opinion, based on reading the congressional debates, that here is a one-to-one relationship between Sections 1 and 5 of the Fourteenth Amendment and the Voting Rights Act. Congress can only implement Section 1 of the Amendment, not go beyond it. However this may be, even the case of Katzenbach v. Morgan, relied upon by supporters of the Senate bill, links the exercise of congressional power to some finding of invidious discrimination. In view of historical evidence, it cannot be argued that denial of the vote to 18-year-olds was thought of as constituting invidious discrimination by those who drafted the Fourteenth Amendment. It is said that this denial constitutes invidious discrimination under any contemporary standards.

There are only two ways of lowering the voting age to 18 (which as a matter of policy I strongly support): either by state legislation or by constitutional amendment. It would be sad, and indeed inconsistent with your pronouncements on the subject of constitutional construction, if your administration would fail to support this bill which shows disregard for the Constitution.

Sincerely yours,

GERHARD CASPER, Professor of Law.

The LAW SCHOOL COLUMBIA UNIVERSITY, New York, N.Y., April 23, 1970.

The President,
The White House, Washington, D.C.

Dear Mr. President:

I am writing at the suggestion of Mr. Currie to provide a written statement of my views on four specific questions that he asked concerning the proposal to reduce the voting age to eighteen years by Act of Congress.

First. As a matter of policy, I favor the reduction of the voting age to 18. Congress invidiously discriminates against the states if it adopts an amendment to the Constitution and thereby deprives the states of the right to determine who shall be eligible to vote.

Second. Prior to the decision of the Supreme Court in Katzenbach v. Morgan, 384 U.S. 665 (1966), I should have stated unreservedly that the extension of the voting age in federal as well as state elections is a matter for the States. Article 1, Sec. 2 and the Seventeenth Amendment, I believe, would adopt for congressional elections the "qualifications requisite for electors of the most numerous branch of the State legislature" and Article 2. Sec. 4 of the Constitution authorizes the appointment of presidential electors. State power is, to be sure, limited by the Amendments, including most relevantly the equal protection clause of the Fourteenth. But the conventional standards of qualification, such as age, residence, literacy and the like have never and would not involve unreasonable or invidious classifications. The Voting Rights Act of 1965, which is the major pillar of constitutional methods is followed in achieving the desirable goal of extending the vote.

Third. To confront the Supreme Court now with the problem of determining the scope and significance of the "one vote, one person" line in the testing context of a statutory reduction of the voting age is, in my opinion, a mistake. For reasons similar to those which would render it almost certain that the Court's decision would entail a sharp division, whichever view prevails. A sustaining judgment resting on the votes of the five surviving members of the Court would authorize two Justices whose age renders long tenure improbable) hardly would provide a healthy basis for Congress. The opinion of any one, let alone the entire Court, would not provide a sufficient basis for Congress. A judgment of invalidity would emphasize the instability of constitutional interpretation, but it has no potential to provide the protected youth who would resent the deprivation.

Believing as I do that the Court is now embarking on the uncertain and hazardous task of setting aside an Act of Congress designed to benefit a substantial number of women and men who might well contribute to the well-being of the institution, I should regard it as a grave misfortune to insist that it take on another major battle at this time.

I consider it to be highly undesirable to attempt to reduce the voting age by Act of Congress. The wise course, in my opinion, is to deal with age as race, color and sex were dealt with in the past and to proceed by resolution of amend- ment.

Fourth. The constitutional problem with respect to voting age is no different in my view, in the election of the Congress and the States, than in the election of the President. So far as Sec. 2, Article II and the Seventeenth Amendment all refer, as I have said above, to State action for the delineation of voters' qualifications. Article II states, in pertinent part, that Congress shall determine the time of choosing the President. It is said that this Amendment, that is, a congressional determination "constitutes an invidious discrimination in violation of the Equal Protection Clause" or is conducive to such deprivation; and, finally, that such a Congressional determination will be sustained by the Court if it is "able to " perceive a basis" on which Congress " might predicate" that judgment (384 U.S. at 676).

If the Morgan opinion, in which five of the present members of the Supreme Court joined, is accepted at face value, its logic would sustain Congressional authority to reduce the voting age by statute or, indeed, to supersede any other disability effected by State law that Congress has some basis for appraising as "invidious." But whether the opinion will or should be so accepted is, I think clear. Morgan did not require such a sweeping theory, since Congress might have considered the New York requirement to have had its roots and been maintained in a particular context: that certain ethnic groups, their identity varying from time to time. Apart from this, a more straightforward reading of the judicial appraisal of the "basis" of Congressional determinations, especially in situations where no ethnic implication is involved and Congress merely would be substituting its opinion for the State's as to the way to draw a line that must be drawn. Some such day as this becomes apparent how far Morgan in the total implications of the Court's opinion would transgress the purpose of the Fourteenth Amendment, broad as one may grant its purpose was.

I do not think, therefore, one can be certain that an Act of Congress that would reduce the voting age would be sustained. It would be a mistake to draw strength from the Morgan opinion but in doing so would put it to a test, the net effect of which would be its limitation or, indeed, repudiation.

In conclusion, I believe, that the proposal to reduce the voting age is a matter for the states. Congress, as an instrument of national policy, is not in this case sufficient to determine "the process by which the states will evolve" (Morgan) or to provide the "swept away state constitutional and legislative inquietudes" (Katzenbach) in the enforcement of Federal guarantees.

Respectfully yours,

HERBERT WECHSLER.


LEONARD GARMENT, Esq.,
The White House, Washington, D.C.

Dear Mr. Garment:

You have asked my views as to the Constitutional powers of Congress to establish the right of all citizens to vote at the age of eighteen.

In various contexts the Supreme Court has declared that the right to vote in federal elections is conferred or secured by the Constitution and that Congress would uphold an act of Congress regulating the qualifications to vote in such elections, including an act that would extend the right to vote to eighteen-year-olds.

The power of Congress to extend the right to vote in local elections, however, is open to serious question. The only basis for such legislation would be that suggested by the Supreme Court in Katzenbach v. Morgan. There the Court held that under the Enforcement Clause of the Fourteenth Amendment Congress can adopt legislation to assure the right to vote to certain persons literally only in Spanish, but that it might have sought thereby to protect them against possible denial by the State of equal protection or due process of law. But there is little evidence that failure to grant the vote to local elections in state eighteen-year-olds in fact jeopardizes their rights to equal protection, due process of law or the Fourteenth Amendment safeguards; there is little evidence that proposals that Congress grant the vote in local elections are motivated by constitutional considerations.

It may be that if Congress adopted such legislation the Court might strain to uphold it in a constitutional way, but that it would examine Congressional motives and purposes. But for its part, surely, Congress ought to be scrupulous about the intended Constitutional limits on its authority, and should not lightly press ever
farther the reach of Congressional authority to legislate in local matters. I am in favor of extending the vote to eighteen-year-olds, and I view with favor Federalism, as the Constitution is called, but as regards state and local elections it should be done by Constitutional amendment.

Sincerely yours,

LOUIS HENKIN.


President Richard M. Nixon,
The White House, Washington, D.C.

Attention: Mr. Leonard Garment.

Dear Mr. President: The pending Voting Rights bill, as passed by the Senate, contains a one-year or two-year lower age for voting to a maximum of 18 in all elections, federal, state and local. Representatives of the Department of Justice, as I am informed, have expressed doubt whether the Constitution authorizes Congress so as to provide by legislation, and have pointed to the shadow of unconstitutionality. I am informed that the high court upon elections conducted under such a statute. They have suggested that if the voting age is to be changed by federal action, amendments to the Constitution must be preceded by appropriate legislation. I am informed that you are interested in receiving an opinion of counsel on this score.

In my opinion, the Constitution does not authorize Congress by statute to provide or require that the minimum age for voting shall be reduced to one year or two years or any other stated age. This is a matter that is left to the several States by the Constitution.

Article I, Section 2, of the Constitution provides that "Representatives shall be apportioned among the several States according to their respective numbers, counting the whole thereof, and the number of Senators and Representatives, to each State, according to its proportion thereof, but in no case shall there be less than six Senators or a lower house of Assembly for the several States, that the right of citizens of the United States to vote shall be denied or abridged by the United States or by any State on account of race, color, or previous conditions of servitude..."

The Nineteenth Amendment 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 sex..." Section 4 of the Fourteenth Amendment 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 conditions of servitude.

The Twenty-sixth Amendment 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 age, but this suggestion that the Constitution authorizes Congress to implement by legislation the provisions of the Fourteenth Amendment to the right to vote by reason of sex, age, or failure to pay a poll or other tax has not yet been suggested and the language of the Fourteenth Amendment to the right to vote by reason of sex, age, or failure to pay a poll or other tax can be taken to authorize Congress to establish or control voting qualifications...."
acted the substance of the Fifteenth Amendment. Yet almost contemporaneously with the ratification of the Fourteenth Amendment, the Congress regarded a constitutional amendment as necessary to protect the voting of the illiterate from the discrimination resulting from voting on the basis of race, color, or previous condition of servitude. This feeling of Congress was wholly consistent with the limited scope of the Fourteenth Amendment to be derived from the terms of Section 2 and the legislative record of its approval by Congress.

Fifty years later the 66th Congress was obviously of the same mind with regard to the scope of the Fifteenth Amendment when it proposed the Nineteenth Amendment to the States for ratification rather than providing by simple statute that the right to vote should be granted to all citizens of the United States or by any State on account of sex.

It has been within the power of the recent majority of the Supreme Court to ignore the language and the history of the Fourteenth Amendment. But it cannot erase the language, or unmake the history. Therefore it is my opinion that the decisions in Katzenbach v. Morgan, 384 U.S. 641 (1966), Bolling v. Sharpe, 347 U.S. 497 (1954), and U.S. 663 (1966) and Carrington v. Rash, 380 U.S. 89 (1965) are congenitally flawed, and provide no sound basis for Congressional authority for imposing any requirement of the Fifteenth Amendment on the States in voting age to 18. In my opinion, the Constitution does not give the Court that authority.

Respectfully submitted,

ERNST J. BROWN.

THE NATIONAL LAW CENTER,
April 23, 1970.

HON. RICHARD NIXON,
President of the United States, The White House, Washington, D.C.

Attention: Mr. Leonard Garment.

DEAR MR. PRESIDENT: Whatever be the merits of lowering the voting to 18 or some other figure, the power to do so by congressional statute rather than by constitutional amendment is a startling proposition with broad constitutional implications going beyond the current issue. It would have been unthinkable a mere half dozen years ago. It remains startling despite the Supreme Court's 1965 ruling in Katzenbach v. Morgan sustaining congressional power to substantially modify English-speaking people to vote.

We all know that under our federal system the powers of the states are expressly authorized to deal with all qualifications of both state and national elections. The grant is limited only by a reserved congressional power regarding the "manner" of holding national elections, and the restrictions derived from the 14th, 15th, and 19th amendments regarding classifications which are based on race or sex or are otherwise invidiously discriminatory or arbitrary.

The fact that the new proposal should be legislatively proposed indicates how far we have embraced the constitutional philosophy that is simply a legislative process, by legislative vote of judicial votes, of ascertaining and implementing current personal desires or current judicial understanding of sound policy—no need to make more than a "casual reference to any higher law principle of authorization other than the dangers in discarding a constitutional system for fluctuating pressure politics, because we cannot know what tomorrow's majority will do?

It is of course trite to observe that constitutional law is not a static system and that the process by which the law is given is a major new constitutional law. But there is one clear difference. Virtually all of our recent famous laws could be rationalized by elaborating basic principles conceptually imbedded in the Constitution—for example the racial integration cases, and the freedom of expression cases. The 18-year-old voting by congressional statute idea, however, runs contrary to constitutional provision. It has only the most tenuous basis in the law, in a supposed "discrimination" principle.

II

Proponents of congressional power to change the voting age in their argument essentially on one base, Katzenbach v. Morgan, sustaining the Kennedy amendment to the Voting Rights Act of 1965. It was dis- signed in 1965 by a majority of New York City who were illiterate in English but literate in Spanish. Although the provision was upholding a rigid congressional power the Supreme Court had difficulty articulating a constitutional basis for doing so, and in the Court decided that the Fourteenth Amendment was not applicable to voting cases. The Court referred to supposed constitutional findings that with more political clout, non-English-speaking Puerto Ricans would get a better break in public services in New York City. But there was little evidence. The phrase "might be" quality on the crucial question of whether or not there was any significant discrimination which voting power might ameliorate. The Court thereby held that to accept the Fourteenth Amendment, and that a presumption of constitutionality attaches to the voting right of 16-year-olds in the argument that Congress acts is needed to "implement" the Fourteenth Amendment. A ruling which seems to give Congress power by statute to expand or contract the Fourteenth Amendment obviously must be handled with care, lest we woefully confuse the line between constitutional law and ordinary law. Read more narrowly, and that is all that is needed to sustain the Puerto Rican voting cases, the Court did not go on a theory of particularized ethnic discrimination by state action which Congress corrected.

III

There are major difficulties in moving from the Puerto Rican voting law to 18-year-old voting, whether Morgan be read narrowly or broadly. Reusing voting age there is no discrimination, only a legislative preference for one figure instead of another, in a field where a choice concededly must be made. The Morgan cases were intentionally directed to 18-year-old voting? What are the two groups which arguably must be treated equally? What did the Court conclude was abraded race as permissible classification. And when differential wealth creates differential access to benefits, we simply aboliish classification. Hence all indigent prisoners can get free trial transcripts for appeal. But there is no distinctive, identifiable group discrimination flowing from a 21-year-old voting rule. Every age from 20 down to 1 is "discriminated" against in the loose sense now being used.

The point is that any age fixed is necessarily arbitrary, and hence poses no constitutional question needing "corrective" Congressional action. It is a matter of open legislative choice, and the Congress can commit that choice to the states, short of a constitutional amendment.

IV

The constitutionally forthright way to resolve the problem is by federal constitutional amendment. Alterations in the basic nature of our body politic should have the same kind of consensus, rather than a legislative logrolling process supported by a novel constitutional dictum. The proposal is precisely the kind of question for which the amendment process exists.

Sincerely yours,

ROBERT G. DIXON, JR.,
Professor of Law.

CONGRESSIONAL RECORD — HOUSE


HON. RICHARD M. NIXON, President of the United States, The White House, Washington, D.C.

Attention: Mr. Leonard Garment.

DEAR MR. PRESIDENT: This letter is in re- sponse to Mr. Garment's inquiry respecting the non-enforcement of the Federal S Voting Rights Act by congressional legislation which would establish a universal age limitation on voting in the United States and fix the age at 18 years.

This proposal has momentous consequence. If enacted it would be a bold and unprecedented attempt to redefine and re-cognize the power of the states to fix voting qualifications and would raise what I regard as very serious and substantial constitutional questions. Under the Constitution it is clear that the right to vote can be interpreted to grant qualifications for voting are preserved to the States. Art. I, Sec. 2, respecting the election of Representatives to the Congress and the Seventeenth Amendment respecting elections of Senators recognize that the qualifications for voting are governed by state law. Moreover, the Constitution gives Congress no power, express or implied, over the general sub- ject of voting qualifications. Congress is given the power under Art. I, Sec. 4, to reg- ulate elections, but that is only in connection with holding elections and Members and Representatives. But this power, construed in conjunc- tion with Art. I, Sec. 2, gives no authority to prescribe qualifications. The question raised by the proposed federal legislation to reduce the voting age to eighteen was granted sole power of the Constitution, the proposed legislation would clearly be beyond Congressional power and the weight of whether it was universal in its scope or limited to Congressmen, Senators and Presidential electors.

Amendments to the Constitution while not abridging the basic power of the States to fix qualifications have curtailed the freedom of the State to classify in fixing qualifications and thereby to limit the voting right. The Fifteenth Amendment provides a denial of the right to vote on the ground of race, color or previous condition of servitude. The Seventeenth Amendment similarly prohibits denial of voting rights on the basis of sex. The Twenty-fourth Amendment prohibits denial of the right to vote for President, Vice President, Senator, and Congress- men because of failure to pay a poll tax. Apart from these specific restrictions on the power of the State to fix qualifications there are many who in defining voting qualifications, the equal protection clause of the Fourteenth Amendment operates to prohibit other arbit- rary limitations on the right to vote. Thus in Harper v. Virginia Board of Elections, 383 U.S. 663 (1966), the Supreme Court held that a state requirement of paying the poll tax as a condition of voting resulted in an arbitrary discrimination which violated this clause.

Admittedly the fixing of an age limit falls within the basic power of the States to pre- scribe qualifications for voting and none of the restrictions on the power to classify for voting purposes achieved by constitutional amendment as mentioned above affect the voting age requirement. Nor is it conceivable that the Supreme Court would declare an age requirement fixed by state law whether at age 21, 20, 19 or 18 as an arbitrary restriction of voting power contrary to the Constitution. This leaves for consideration the whole question whether there is a legislative power for the States to fix an age limit qualification.

The only possible source claimed for such power is the authority granted to Congress under the 5th section of the Fourteenth Amendment.
Amendment to enforce this Amendment's restrictions and more particularly, those which are, the power. May Congress by legislative act fix the voting age limit at 18 thereby in effect declare that a higher age limit is arbitrary and violate the equal protection clause which violates the equal protection clause?

In examining this question we may first consider the Supreme Court's decision in South Carolina v. Katzenbach, 383 U.S. 301 (1966), where the Court upheld the provisions of the Voting Rights Act of 1965 which prohibited the use of literacy tests in states where their use was found to achieve racial discrimination in voting in violation of the Fifteenth Amendment. Congress had the power to enforce the Fifteenth Amendment and Congress here was using its power to deal with this constitutional problem; this afforded it the power to fix the voting age limit as the Court did in this case under this Amendment. Since the Congress here was using its power to enforce a specific constitutional restriction and since the Supreme Court had already recognized that state use of literacy tests as a means of racial discrimination in voting was invalid, the case has no real bearing on the power of Congress to define permissible voting qualifications under its power to enforce the equal protection clause of the Fourteenth Amendment.

The companion case of Katzenbach v. Morgan, 394 U.S. 641 (1969), does go to the question under consideration. Here the Court upheld the Voting Rights Act of 1965 which fixed the voting age limitation at twenty-one years of age. Katzenbach v. Morgan, here the power to enforce the Fourteenth Amendment and Congress here was using its power to deal with this constitutional problem, this afforded it the power to fix the voting age limit as the Court did in this case under this Amendment. Since the Congress here was using its power to enforce a specific constitutional restriction and since the Supreme Court had already recognized that state use of literacy tests as a means of racial discrimination in voting was invalid, the case has no real bearing on the power of Congress to define permissible voting qualifications under its power to enforce the equal protection clause of the Fourteenth Amendment.

This case for the first time recognized that the Congressional power to enforce the equal protection clause does not extend to fixing the voting age limit. The case recognized the substance of equal protection by declaring a particular classification established by state law to be invalid and substituting in its place a classification established by the national government. The Supreme Court has made it abundantly clear that the equal protection clause forbids state classifications and that a state's right to fix ages to determine a person's “age” as it satisfies and that whether a state classification constitutes an unlawful discrimination is appropriately a matter for judicial determination. Congress has an independent substantial power to pass on classifications and to condemn a state's classification as discriminatory or reasonable or arbitrary even though the Court itself would not have found a violation of the equal protection clause.

The Morgan case, Morgan v. Morgan, opens up a wide power in Congress to review and to invalidate classifications established by state law by finding that such intrusions into state legislative authority violates the equal protection of the laws. The wide implications of such an interpretation are noted in the Congress' 1970 report that Mr. Justice Stewart, Applied to the problem at hand, Morgan as so construed would be authority for Congress to fix a voting age in any state which Congress would hold to be arbitrary and violate the equal protection clause of the states on the theory that any higher age limit than that fixed by Congress is a denial of equal protection.

The question then is whether Morgan established such a broad principle and whether it is subject to any limitations which would be relevant to the question of Congressional power to fix the voting age limit above 18.

In Morgan v. Morgan, the majority opinion of Justice Stewart, Mr. Justice Marshall, and Mr. Justice Black, held that the Congress, under the Fourteenth Amendment's power to enforce by appropriate legislation the Fifteenth Amendment's provision prohibiting the voting qualifications, the majority opinion in Morgan in holding that the Congress had the power to fix the voting age limit as the Court did in this case under this Amendment.

The Court in Morgan recognizes that an age requirement is valid when Congress by its power to fix the voting age limit as the Court did in this case under this Amendment.

The purpose of an age limit is to assure sufficient maturity in exercising the right to vote. Congress may not, by fixing a 21 year age limit as the standard for voting maturity? Obviously, this power is a discretionary power. Most states continue to adhere to the twenty-one year limit. A few have reduced the limit to a lower age. It may be assumed that fixing the age limit anywhere from 18 to 21 is reasonable so far as any judicial interpretation of the equal protection clause is concerned. Since the basic power to fix age limits is vested in Congress, and not in Congress the question raised by the proposed Congressional legislation is not whether it is appropriate for Congress to fix the voting age limit at 21 but whether it is appropriate for Congress to declare that any age limit higher than 18 is violative of the Constitution and that any result in an arbitrary classification. Or to put the matter in another way does Congress have a basis for saying that a 19, 20 or 21 year age limit as may be imposed by the law does not have a rational relation to the question of whether a person is sufficiently mature to take part in the voting process?

In answering this question two considerations may be noted. The fixing of a voting age limit involves a legislative choice within the broad limitations set forth by the Constitution. First, it has been demonstrated that Congress because of its studies it has made and investigations it has conducted has a better informed basis than the states for determining when citizens are old enough to vote. This is not a matter of determination by objective criteria. Secondly, and much more important, states have been fixing age limits for voting ever since the Constitution was adopted and even before, and until recently twenty-one years of age has been the standard age limit as it has been questioned. It is fantastic to suggest that when the States ratified the Fourteenth Amendment it was their intention that they were thereby giving Congress the authority, in the name of equal protection enforcement, to displace their own arrangements, to fix voting age limits or to declare that any voting age limit above 18 constituted an unconstitutional discrimination. Indeed, the Fourteenth Amendment did not validate the validity of the twenty-one year age limit as a qualification for voting. Section 2 of this Amendment, which Congress does not have power to enforce, was adopted to reduce the representation in Congress of states which deny voting right to blacks speaking directly to any of the inhabitants of such State, being twenty-one years of age, and citizens of the United States. . . .

It is not to be supposed that the Fourteenth Amendment suffers from an internal contradiction and that the equal protection clause was intended as a source of power to Congress to override state classifications explicitly sanctioned by this Amendment. The requirements of this Amendment requires an extraordinary latitude in the Congress's power it is necessary to pass on the question, two justices expressed the view that the New York literacy requirement as applied to Puerto Ricans in New York City was an arbitrary exercise of power aside from any federal legislative subject. But in fixing a federal age requirement at age eighteen Congress recognizes that an age limit is required for voting qualifications. The real question is whether Congress while recognizing that an age requirement is valid may choose to place the responsibility of determining the age of eighteen years constitutes an invidious discrimination against the class of persons before which it is fixed. Whether a higher age may which which may be fixed by a state's law.
CONGRESSIONAL RECORD—HOUSE 20173

June 17, 1970

prescribe a twenty-one year age limit is not consistent with the letter of the Constitution. In summary, there are very substantial differences among the proposals presented in Morgan and the voting age problem as presented in the Morgan arguments. The voting age problem presented in Morgan and the voting age problem. In its legislation at issue in Morgan, Congress would enact legislation providing for a universal voting age of eighteen years, the way in which the Court has determined, was the constitutional amendment. It seems to me, then, the proper Congress to deal with the matter is the House, rather than enact legislation which raises serious constitutional issues and would endanger the unbroken uncertainly and confusion arising from conflicting constitutional enactments. I remain,

Respectfully yours,
PAUL G. KAUFER

Mr. Speaker, I wholeheartedly support the extension of the 1965 Voting Rights Act. I voted this conviction in this House last December 11. In addition, the Senate version includes two vote-protecting or vote-extending amendments which I sought unsuccessfully to have the House adopt last week. I am very pleased by every provi- tion of the Senate bill except that which would, by statute, lower the voting age nationwide in all elections. I am the author of a proposal to do this, by con- stitutional amendment.

I am also working in Minnesota to gain support for our pending State constitutional amendment to lower the vot- ing age to 19 for all Minnesotans. Many 19- and 20-year-olds at home have asked me: What happens to our Minnesota effort if we in Washington take the constitu- tionally questionable route of seek- ing by statute to lower the voting age to 18?

While I will do nothing to jeopardize the extension of the 1965 Voting Rights Act, I must register a protest against the method of lowering the voting age con- tained in the Senate rider. Thus, I will vote "No" on the previous question.

But it is obvious that the previous question is not the present issue. For it is of overriding importance that the Voting Rights Act be extended, I will vote "Yes" on the issue of agreeing to the Senate amendments to H.R. 4249.

Mr. BOLAND. Mr. Speaker, I want to express my support for the extension to the 1965 Voting Rights Act. The bill—seeking a 5-year extension of one of the most significant pieces of legis- lation ever to emerge from the Congress—would amend the Voting Rights Act in three principal ways. First, it would flout the law the literacy test. Second, it would establish uniform national residency require- ments for voting in presidential elections. Third—and most important of all—it would grant the right to vote to any citizen 18 years of age or older. It is plain—indeed, conspicuous—that today 18 is the bright and far more sophisticated than those of even a generation ago. It can be argued convincingly, in fact, that contemporary youth is more keenly aware of the problems confronting the American people and more ardently de- voted to solving those problems than many of their elders. At the age of 18, young men and women have completed their secondary education. They are entering college, joining the Armed Forces, tak- ing jobs. They are more intellectually mature and more politically responsible than any generation in the country's his- tory. It was nearly two centuries ago—in the year 1787, the founding of free States set the voting age at 21. It made sense then. It no longer makes sense today.

The overwhelming majority of Ameri- can youth want to work within what is called "the system," seeking the polit- ical goals through the traditional insti- tutions of our democracy. They are frustrated, however, merely because they are denied the right to vote. American young people are a powerful force for good in our society. Granted, a minority so small that it can be accurately termed "trivial" has embraced radicalism and revolution. But—I cannot emphasize this point strongly enough—most young peo- ple border on exemplary citizens. They are bright. They are responsible. They are conscientious. They deserve the right to vote.

A significant question exists about the constitutionality of the bill now before us. Some legal scholars argue persuasively that a constitutional amendment is the only legitimate vehicle for lowering the voting age on a nationwide scale. We in the House, as you know, Mr. Speaker, have already passed such a constitu- tional amendment—one that I cospon- sored—but, to date, it has languished in the Senate. Other legal experts main- tain that the Supreme Court has held that the bill we are now considering falls within the Constitution's framework. Yet, despite the controversy, I feel we should pass this bill. If we do not—if we reject or amend House Resolution 914— the entire Voting Rights Extension Act may be defeated by filibuster when it returns to the Senate. In any case, a prompt court test of the bill's constitu- tionality is virtually assured.

In conclusion, I want to extend the franchise to America's young people. If the legislative means are wrong, the courts will tell us so.

We must not abandon an opportunity to extend to the most promising generation in our history to take part in the political process.

Mr. MCCLOSKEY. Mr. Speaker, I have serious reservations about the constitu- tionality of lowering the voting age to 18 through congressional action, rather than constitutional amendment. Certainly the Journal of the Constitutional Convention of 1787, the record of debates on the 14th and 15th amendments, and the Supreme Court cases prior to Katzenbach against Morgan provide no indication of support for Federal, rather than State, action to determine the qualifications for the most numerous branch of the State legislatures.

While the decision in Katzenbach against Morgan has broadened, and I think correctly so, the purview of Con- gress in preventing State action from inter- fering with the right of equal protection of the law, it is quite clear that elec- tion alone does not remove reasonable doubt of the propriety of congressional action to lower the voting age.
The crucial question, then, in my judgment, is whether or not the present circumstances of the United States, in the last third of the 20th century, justify a constitutional interpretation that denial of voting rights to 18-year-olds is denial of equal protection of the law to those of that age.

Recognizing on the one hand the great privileges of U.S. citizenship, we might also consider the burdens of that citizenship. We make few requirements of our citizen: that they obey the law, pay taxes, serve on juries and, finally, that during their youth, our young men serve in the Armed Forces.

This mandatory duty of military service must be considered the most difficult of all; certainly in the past 5 years the burdens of an unpopular war have fallen more on those of the ages of 18 through 20 than on any other age group. The loss of life, liberty and pursuit of happiness has occurred primarily among the young combat infantrymen. I am impelled to note that over half the young men of one marine rifle regiment in Vietnam last year were killed or wounded by booby traps. They were 18. Their age was privileged to serve with a rifle platoon in Korea, most of whom were killed or wounded, and whose average age was 21.

At 18 we require our young men to register for the draft; many 18-year-olds volunteer for military service. And the burden is not just on young men. It also falls on those who love them and who watch and wait for their homecoming, the women and girls whose lives are linked with theirs.

If equal protection of the laws is to have any real meaning at this point in our history, it would seem reasonable to conclude that the obligation to fight and die in a war against people whom a man does not hate, in a cause in which he does not believe, justifies the protection of law that such man and the loved ones of his age be entitled to vote for or against the men who lead them.

It is therefore, Mr. Speaker, that I will vote today for the lowering of the voting age to 18, despite the possibility that the Supreme Court may well take a narrower view of constitutional construction. On balance I feel the Court should sustain our action today.

Mr. BENNETT. Mr. Speaker, I believe I was the first southerner to speak out for the 1965 voting rights bill. When I so spoke I did so under no delusion that this position was the then popular position in my district. I have never regretted that decision, because I believed what I was doing was the right thing to do and that my constituents would some day agree; but even if they did not, I fulfilled the concept of representative government that a representative owes to his constituents his best judgment, whether or not it becomes a political liability to himself.

 Likewise, today, I speak for this measure to allow 18-year-olds to vote because I think it to be the right thing to do. I do so on the ground that it is in accordance with the opinion of my district. I believe that these young people are qualified by education and sufficient experience in life to cast sound votes. They are today required to carry heavy burdens of citizenship, including service in the Armed Forces. There is an ominous danger to democracy if it disenfranchises citizens merely by prohibiting the normal exercise of citizenship in the vote, frustrations arise which can lead to dangerous alternatives in dissent.

Frankly, I would have preferred a constitutional amendment to solve this situation. But two arguments impress me with the present procedure. First, I think that the time for action in this is now, not years hence by the lengthy amendment procedure. Second, I feel that this statutory procedure is permissible under our Constitution. Although the Constitution did originally put qualifications for voting solely in the hands of the States, the 14th amendment to the Constitution, being later in date than the original qualifications provision of the Constitution, would appear to give Congress the power to act in the field.

The Supreme Court in the case of Katzenbach v.Congressional Research Service (1966) did in fact, rule that this is the case in upholding a Federal law prohibiting a New York English literacy test.

In conclusion, Mr. Speaker, I urge that the House enact this measure; and in so doing I express confidence in the vast majority of well behaved young people today, who are obviously our best and only hope for the future. As for me, I am proud to vote for it.

Mr. FOUNTAIN. Mr. Speaker, one does not have to be opposed to a lower voting age to take issue with the method by which the Senate proposes that this be done in H.R. 4249. It is argued in the preamble to the Senate's lower voting age amendment that there is no compelling State interest in this matter. How curious indeed that after 180 years of this constitutional amendment it has always been within the province of the States to set the voting age, there has now arrived in our 181st year a situation in which there is no longer any compelling interest to keep our young people from the ballot. This is a bold attempt by some in the Congress to usurp jurisdiction in this matter. Such action might be more acceptable were the States asked to acquiesce in it. In other words, were Congress to pass a constitutional amendment lowering the voting age, which would require ratification by three-fourths of the States before it could become effective, I would support it. But that is not proposed in H.R. 4249. Congress is to decide by statute that the universal voting age for all elections—national, State and local—shall henceforth be 18. I ask: "Is that not arrogance? Yea, verily."

Mr. Speaker, are we to meekly assent to such jarring of the Constitution? Are we not to contest this because "the votes are there?" Here stands one representative of the people who will not quietly acquiesce.

Would it be going too far to point out that virtually every State legislature has had this matter under consideration in the past 3 years? Would it be going too far to note that in two States—Tennessee and New Jersey—voters defeated referendum proposals to lower the voting age in 1968; that in Oregon, this year, voters voted against a constitutional proposal; and that in 15 other States this year, people came before the voters for resolution?

In short, action is going on at the State level. We may not all agree with the results, but those who have traditionally opposed lowering the voting age are taking action. Why then should Congress preempt this field? Why should Congress by statute lower the voting age?

There is no good reason for it. In truth, and we all know it, this is simply an arrogation of power. Members of Congress, apparently a majority, are convinced that this is a good thing. Accordingly, ride roughshod over our constitutional system. The devil with division of powers. How much longer can this Nation, through court and constitutional action, stand changes in the basic constitutional concept upon which it was founded? Not much longer.

I do not accuse anyone of insincerity. On the contrary, I am convinced of misguided sincerity. If they are so convinced of the rectitude and value of this action, let them go to the people of their respective States and petition them to vote "yea" on this question. Why do they not do that? Because they know full well that, despite the polls published by Mr. Gallup, the people of many States are against this proposal. Others will probably dit in due time accept it, but time after time with the exception of Georgia in 1949 and Kentucky in 1956, the voters have rejected this notion.

Does this daunt the Congress? Far from the case. We now have before us this piece of legislation which will lower the voting age by a Federal statute not by State ratification. We are asked to vote for it because, by the most attenuated of argumentation, it is suggested that to deny them the ballot is to deny them equal protection of the laws. If ridiculous can we believe in our constitutional processes. Well, it has been said before: there is no end to the folly of man.

Let us be done with this charade; with this thinly disguised seizure of power. Let this House stand up for constitutional procedures. Let this issue be redressed in orderly fashion. Let us reject adoption of the Senate version of H.R. 4249. In any event, let us order a conference. Let us eliminate this unconstitutional provision to lower the voting age. If it is the will of two-thirds of the Congress— and I will be among that group—let us pass a constitutional amendment and remit it to the States for their action. That is the right and safe course, Mr. Speaker. It is what I believe these Members of this body who believe it otherwise. I cannot understand these efforts to move ahead and deal with all elections, Federal, State, and local, by Federal statutory route. Congress ought to look to the problem the country will face if the Supreme Court were to invalidate
a whole set of elections. The Court should not have to render a decision under such pressure—knowing that to properly declare an act unconstitutional could bring to a halt our entire system of government.

The perversion of the Constitution to accomplish even a goal with merit is entirely too high a price to pay. One of the most serious problems from which this Nation suffers today is “spreading dis- dain for law.” Abuse of the Constitution to attain even desirable ends can only succor those who would replace law and constitutionalism with fiat and force.

So, I appeal to my colleagues to reject the Senate amendment. I appeal to them to support orderly constitutional procedure.

These days one never knows what the Supreme Court will say, but regardless, it is not constitutional to change the voting age in this manner. Mr. Archibald Cox and Mr. Paul Freund to the contrary, this is not proper. It is not good for the country.

The clear mandate of article I, section 2, is to leave this question to the States to abide by. Congress which would allow for the action here suggested. There can be no good reason for Congress to intervene in this manner. Let us not participate in this power to determine matters that determine this matter, and they are acting to do so. That in itself is enough reason to send this proposal to conference so that the orderly constitutional amendment in process may at least be considered.

Mr. DOWNING. Mr. Speaker, I have given this resolution considerable study and thought because it has caused me great concern.

But favor equal voting rights for all people, and despite recent youthful disorders, I would like to see 18-year-olds have the right to vote. My conscience and judgment, however, will not permit me to cast a favorable vote for this particular resolution.

I voted for the Voting Control Act when it applied to all of the States in our Union. If such controls are necessary, they should apply to all States and not to selected ones.

The Senate, however, saw fit to remove this nondiscriminatory provision and amended the bill so that it again shackles and humiliates the seven Southern States, including my own State of Virginia and a few outside counties.

I sincerely believe that the present minimum voting age should be lowered to 18 years, but I will not sanction what I think is a constitutional action in order to accomplish an ends.

The 14th amendment to the Constitution establishes the age of 21 as the minimum voting age. To change this by simple legislation would be clearly and unequivocally a constitutional action. It would establish a dangerous precedent for other changes to come.

The merits of this proposal sorely tempt me to ignore the possible restric-
Mr. PODELL. Mr. Speaker, we have before us today one of the most important pieces of legislation to come before Congress this session. I am speaking specifically of the amendment to the Voting Rights Act giving the 18-year-olds the right to vote.

The reasons surrounding this measure have created strong constitutional and emotional overtones. There have been strong and cogent arguments raised on both sides of the issue of the constitutionality of Congress to act on this matter. I am convinced, however, that Congress has the constitutional obligation to adopt the amendment.

This is clearly an issue whose time has come. If Congress refuses to act today, it has no choice but to renounce its claim to leadership in the ongoing struggle for individual rights.

I have long been aware of the inequities present within our voting system. The denial of the 18-year-olds' right to vote has become one of the most serious of these inequities.

In 1965, as a member of the New York State Assembly, I introduced the first constitutional amendment recognizing the right of Congress to legislate nationwide voting qualifications.

There can be little doubt that the constitutionality of this provision will be tested early in the courts, but there is no substance to the charge of opponents of this bill that its passage would create havoc in a future election. The 18-year-old vote is not authorized until January 1, 1971, and the Supreme Court can expect to hear the issue long before any elections are held.

The important need for this move is the increasing alienation of our young people from the governmental decisions which affect their lives so profoundly. We can do much to restore the faith of these young citizens in the American political system by enfranchising so many who have demonstrably shown their intelligence, maturity, and sense of responsibility about the future of this Nation.

Mr. Speaker, as we moved toward consideration of this important legislation, we beheld the Nixon administration's strategy creating the Capitol Hill once more as a familiar plight. The heavy lobbying effort being mounted against the voting rights amendments proves once again that the administration, in pursuit of future election victories, is willing to sacrifice the basic rights of all blacks as not being worthy of American citizenship. In opposing this bill the President is also confirming the wide gulf between his policies and the legitimate wishes and aspirations of millions of our young people into whose hands the direction of the Nation's affairs will soon be placed.

In these troubled times we need more participation in the political process, not less. The American people are only fit and in keeping with the tenets upon which our representative democracy is based. I urge my colleagues to pass this bill overwhelmingly, and there are the people's faith in the system which must be kept responsive to the times.

expression for this generation's intense concern. They have been mobilized and are not to bekal enorced.

The vote will be the avenue for the channeling of political activity. It is true that we still look upon the vote as the ultimate weapon in our society, as the instrument by which citizens may peacefully challenge the status quo, then this Congress must provide the right to vote to our 18-year-olds.

This system has worked well in the two States which have the 18-year-old franchise—Georgia and Kentucky. This Congress cannot claim to be defending and enforcing the 14th amendment which provides for the equal protection of the law, when it denies the right to vote to these individuals who are so informed about all the remedies of our society and who have so great a stake in its development.

Congress clearly has the constitutional obligation to pass the amendment giving the 18-year-old the right to vote.

Mr. RODINO. Mr. Speaker, I rise to urge the House to join with the Senate amendments to H.R. 4249, the bill to extend the Voting Rights Act of 1965, with respect to the discriminatory use of tests and devices.

As the author of the Committee on the Judiciary recommendations, the Voting Rights Act of 1965 and H.R. 4249, I would like to point out, before we act, that no matter what we do, we cannot fully or completely in the lives of every State, to pass system, which we have reached 21 and not their 22nd, to being denied the right to vote today.

Reasons for retaining 21 as a minimum age for voting are not very convincing. In the 11th century it has been appropriate to judge a man's maturity and physical ability to bear the weight of a knight's armor;
The right of all citizens of all races, religions, creeds, and nationalities to vote in all areas of our country is a fundamental one.

Legally I think the question of the 18-year-old vote should properly be handled through a constitutional amendment. I have serious doubts that Congress has power to grant the 18-year-old vote in all States without a constitutional amendment. Since our Government unconstitutionally drafts 18-year-olds to fight and die for the military draft, and since throughout much of this country they may marry, make wills and be taxed, I think it is most difficult to deny them the right to vote for the Government whose policies determine this right.

It is perhaps not surprising that groups which find themselves denied a voice in the decisions which affect their destiny feel estranged and alienated and regard it as "the Government" rather than our Government... For these reasons, I would favor submission of a constitutional amendment to all of the 50 States so that if three-fourths of them grant the right of 18-year-olds to vote they could be established as part of our Constitution, just as the right of women to be voted was established as part of our Constitution.

I see no more reason to join Voting Rights Act with an 18-year-old vote proposal than I do for mixing onions and apricots. Except for the exotic procedural rules of the other body we would not be forced to consider such head-on legislation. This would support the effort to return this measure to conference so that two separate issues may be considered separately.

Mr. ANNUNZIO. Mr. Speaker, the House is considering the Voting Rights Act with an 18-year-old vote proposal. I want to go on record in strong support of this bill. It is true that the Senate has added amendments to the House version of the voting rights bill, but these changes are not serious ones. This bill is a stronger, more powerful one because of these changes. There is no question but that the Voting Rights Act of 1965 has enabled thousands to vote who never had that right before. We must not let them down now.

You are familiar with these Senate provisions: To extend the coverage of the Voting Rights Act of 1965 to those States and counties where a literacy test was required on November 1, 1968, and where fewer than 50 percent of the voting age population actually voted in the 1968 presidential election and to retain the provisions which requires Federal review of new voting laws enacted by those States covered by the act. This is a most important provision, for we all know too well how black citizens were denied their right to vote for various and surely voting laws and requirements.

Mr. Speaker, I think it is necessary to stress the importance of the Senate amendment to lower the voting age to 18. This has been a hotly contested issue. Some believe Congress has no authority to change the voting age by statute. I am not one of them. I feel this issue is too important to be haggled over. Moreover, the evidence for statute change is convincing. The Supreme Court in Katzenbach against Morgan made it quite clear that Congress does have the constitutional power to make this change. It makes a finding of discrimination and denial of equal protection of the law as prohibited by the 14th amendment.

There can be no question, Mr. Speaker, that this House is a House of the people and this is a House where the people cannot exercise their will through proper channels, history shows that they take to the streets. Why, then do we hesitate, when the answer is so obvious? Why do we delay? Senator MANSFIELD recently said: "Lowering the voting age to 18 will tend to bring about a better and more equitable balance in the electorate of the nation. As life expectancy rises, the number of older voters increases. A corresponding expansion in the number of younger voters will not only broaden the political base of the Government, but will also make for a more balanced approach in the nation's general political outlook.

Although the median age of the American population is going down—about 27 now—the median age of the American voter is 50 or 55. Thus, lowering the voting age would, indeed, bring our political process into balance.

Public opinion is very definitely for lowering the voting age. In the recent Gallup polls on this question, between 56 and 66 percent of the public favored such action.

Our young people today are the best educated yet. Their enthusiasm for concern for the world cannot be denied. Why do we hesitate when we have so much to gain?

I feel strongly that in a democratic society access to the ballot is a fundamental governing power. In the Voting Rights Act of 1965 we guaranteed this right to our black citizens, let us now extend this right to those 18, 19, and 20. It is sensible to do so. Let this issue now be settled.

Mr. COHELAN. Mr. Speaker, I rise in support of H.R. 4429, the Voting Rights Act, as amended by the Senate. I support this bill because it represents a viable attempt to guarantee equal voting rights for all of our citizens. I am happy to be able to vote for this bill.

The key provisions of this bill are that it extends for another 5 years the Voting Rights Act of 1965. I think we are all familiar with the purpose of this legislation in terms of increased voters registration in areas where discrimination was a known fact and a common practice. We must continue to move ahead in this direction by extending this legislation for yet another period of time.

Another key provision is the nationwide ban on literacy tests which would indeed lend a more equitable and judicial character to this bill. The simple fact that literacy tests exist implies a sense of discrimination and inhibits citizens from registering. It is time we eliminate all vestiges of our electoral system which funnel prejudice.

Another section of importance is establishing uniform residency requirements
for voting in presidential elections—a person need only reside in an area 30 days prior to the election. We live in an age of increasing mobility. Voters should not be penalized by strict residency requirements—a change like this would provide for a more interested and enthusiastic electorate.

Mr. FRIEDEL, I am especially pleased with the provision extending the vote to all 18-year-olds. The present cut-off age of 21 years necessarily eliminates a large number of our citizens from assuming a rightful place in our political process. While the 18-year-old does not have the same potential or ability to be politically informed as a 21- or 35- or 43-year-old? Our young people have assumed the responsibilities of fighting our wars, of paying taxes, of taking positions in the business world, of being married and raising families. Why should they be denied the right to vote?

Our social and educational systems are such that our young people today are more aware of national problems and responsibilities. Their enthusiasm should not be stifled but should be nurtured. They should be allowed to play a rightful part in our political process. I can think of no better way to provide for an informed and caring electorate than to extend the privilege to vote to our young people. They have certainly exhibited an interest and I feel it is a grave oversight on our part not to extend this to our young people. It should be given its proper outlet—by allowing them to express their choice at the polls. I feel that extending the vote to 18-year-olds will be a positive step toward a more informed electorate and will stimulate and encourage our young people to work within the political system.

We are witnessing a terrible crisis in our country today—many young people have lost confidence in political authority and institutions. Political rhetoric will no longer satisfy their energies—nor will it reinforce their faith in the system. We must allow them to take their rightful place in the system by giving them the opportunity to assume corresponding responsibilities of the franchise.

I know that some are concerned about the constitutional precedents for this action. But I have investigated these arguments thoroughly and am convinced that the Congress has the constitutional authority to take this step. I am further convinced that the Congress has now an important responsibility to take this step.

I urge my colleagues on both sides of the aisle to support this bill.

Mr. FRIEDEL, Mr. Speaker, I support wholeheartedly House Resolution 914, and urge all Members of this House who have a deep desire to insulate a constructive and conscientious role in the United States. It is one of the most important measures. If there ever were alienated groups in our society today, it is the black and the young. All men of good will must want— and we must work in the United States to integrate these groups into the mainstream of American life. What better way than by making possible the passage in this body today of the excellent Senate passed version of the Voting Rights Extension Act. The pending resolution will make this possible.

As one who, thank God, has had a long and fruitful public life, I would say that if there ever has been an era in the history of our great and beloved country where we needed a measure to truly move our country forward, it is now. House Resolution 914 can go a long way in making this possible by permitting the House to accept the Senate-passed version of the Voting Rights Extension Act.

How many of us in recent weeks have heard stories of the poor black community saying "they don't hear us" or "they just don't want to change the system." Let me be one of the voices that we can change and bring about a new era where the catch phrase, "the generation gap," can at last be forgotten and millions of young people can begin to work within the system to improve things.

Mr. Speaker, who among us really prefer the situation in which our people disenchanted and condemning the system rather than participating in its operations? By voting for the pending resolution today, we can make these young people feel that like all others they can be included.

Now some people have said that the 18-year-old vote by this means is unconstitutional and they have cited legal precedent in support of their position. The Senate-passed version of the voting rights legislation would provide for a speedy and expeditious court test of the constitutionality of the 18-year-old vote provision.

The opinions of the legal question which have come to my attention from our leading law school faculties persuade me to the view that the Supreme Court will ultimately uphold the constitutionality of this approach. What I simply cannot understand is why the Nixon administration, with its much-publicized goal to "bring us together," would be 180 degrees to the contrary in opposing this type of constructive utilization of the energies of our young people.

What it all boils down to is, do we want to have young voters who are disenfranchised and fighting a constructive outlet for the tremendous commitment and energy which the vast majority of our young people have demonstrated to the community, and specifically to the House of Representatives, welcomes the interest and active participation of all young Americans in our historic political process. By providing the 18-year-olds with the right to vote we would make the valuable and vital activity which is now being wasted and frustrated and thereby causing further domestic unrest.

On protecting and extending the landmark legislation which we passed in the 89th Congress, with its much-publicized potential of our black citizens, we must not, in 1970, abandon the constructive course we have at long last embarked on. The 13th amendment was ratified in 1867 and it took another 43 years to put it into the Constitution and make it work. We are just now beginning to see the results of significantly larger numbers of black citizens participating in the elective process.

The literacy test was a scourge for far too many years which prevented millions of our citizens from exercising their franchise.

Again, Mr. Speaker, the Nixon administration appears to be going in the opposite direction from its stated theme "bring us together." The administration offered to suspend enforcement of the literacy test. Unfortunately this House last week by three votes eliminated the preclearance requirement and shifted the exclusive jurisdiction over voting rights cases from the District of Columbia Federal Court to the Supreme Court. In doing this action this action permits reinstatement of discriminatory voter registration practices and eliminates the requirement that States file voting law changes with the Justice Department. It would tilt ultimate enforcement of this important constitutional right in the hands of the Attorney General who would have complete discretion over what suits would be filed in southern district courts rather than to the Supreme Court of the United States in the District of Columbia.

The Senate, wisely, in my view, amended H.R. 4249 to restore the original language and intent of the 1965 act and to provide enforcement provisions for 5 additional years. The Senate bill would also establish once and for all a nationwide ban on literacy tests and provide for uniform residency requirements for voting in presidential elections.

Mr. Speaker, in conclusion, and as I said at the beginning of my remarks, we simply must take positive steps to protect the future of our democratic system. Our young and black people are being disenfranchised, right or wrongly, with many aspects of our system. By voting for House Resolution 914 we can go a long way in allowing these valuable people to have their day in that most sacred of all courts of last resort, the U.S. electoral system.

Mr. PODELL. Mr. Speaker, we have before us today one of the most important pieces of legislation to come before Congress this session. I am speaking particularly of the amendment to the Voting Rights Act giving the 18-year-old the right to vote.

The issues surrounding this measure have created strong constitutional and emotional overtones. There have been strong and cogent arguments raised on both sides of the issue of the constitutional authority of the Congress to act on this matter. I am convinced, however, that Congress has the constitutional obligation to legislate on this important subject.

Mr. BUSH. Mr. Speaker, I am somewhat distressed that legislation as vital as the Voting Rights Act has been obliterated by the Senate ride permitting entry into the franchise of 18-year-olds. The Voting Rights Act is extremely important. As passed by the House the bill would suspend all literacy tests, provide uniform residence requirements for those who want to vote in presidential elections, grant the Attorney General the authority to sue election officials, and observers in any jurisdiction to enforce the right to register and to vote, force the right to register and to vote, and launch a study of the use of literacy and
tests and other devices that may be
abridging the voting rights of individu-
al. The most important feature of the
House version is that it discontinues the
punitive and discriminatory provisions of the
1965 Act. The Senate version, however, remains
punitive and discriminatory on most provisions aimed at one
section of the country. I have some phil-
osophical problems with the Senate ver-
sion of this bill. I would like to see the
House stick to its version.
I am pleased that the issue of 18-
year-olds voting is being debated in the
Congress and in the country, but I am
sorry that it is in connection with this bill.
Personally, I feel that these young people are
not ready. The requirements and restric-
tions affecting the voting of 18-year-olds from
1965 are still applicable. This bill would
franchise 18-year-olds by constitutional amend-ment. I feel that this should not be accomplished by
statute. The Katzenbach against Morgan decision upon which the Senate based its
argument that 18-year-olds can be en-
franchised by statute only makes sense
when looked at in the context of the
mainstream of the 14th amendment lit-
gation, policing State restrictions on
electoral rights. The restrictions restric-
ting young people simply do not fit
into this category.
Mr. REID of New York. Mr. Speaker,
I rise in strong support of House Resolu-
tion 914, providing for agreeing to the
Senate amendments to H.R. 4529, the
Voting Rights Act amendments.
Mr. Speaker, the action of this House last December
in failing to extend the Voting Rights Act in its present form was reprehensible and a major setback to the
18-year-olds. The prestige today is to
express confidence in the effectiveness of
today for the extension of the Voting
Rights Act without crippling amend-
ments.
In addition, the Senate bill adds three
very important provisions respecting the
right to vote in general. First, the bill ex-
pands the temporary ban on literacy tests
to make it national rather than regional in
scope and effect. Second, the Senate bill
includes a nationwide uniform auth-
orization for persons to vote in presen-
tial and vice presidential elections if
they have resided in a State since the
first day of September preceding the
November election. This is a reasonable
provision. I believe it is absolutely essential if the right to choose the
President and Vice President is not
to be circumscribed by the exigencies of
moving in today's mobile society. I intro-
duced a bill in 1969 to accomplish this,
and I am glad to see it included in the
Voting Rights Act.
Third, and most important, the Sen-
ate bill provides for extending the right
to vote to 18-year-olds. The challenge of
youth is perhaps the greatest domestic challenge facing the United States in the
1970s. The concern of our young men
and women over the political and social
future of our country has been well dem-
onstrated. They have campaigned for
candidates of all stripes, they have
been far ahead of their age in their interest in
indicating the need for change. In these
evendues, they have shown an extraor-
dinary degree of commitment to prin-
ciple, a great faith in democratic insti-
tutions, and a desire to work within the
system.
It is an undeniable fact that in 1970
our youth are better educated and better
equipped to cope with the responsibili-
ties of citizenship in a democratic so-
ciety than any other generation.
It is undeniable that in 1970 our youth
have a greater degree of sensitivity to-
ward political issues than ever before,
and a potent desire to channel their energy
in the constructive direction of change.
And it is also undeniable that we have
perpetuated a grievous situation in
which some 11 million of our citizens have borne the responsibilities of citi-
zenship while falling to be endowed with
testing or other measures of proof of
their responsibilities. These 11 million
be fit the responsibilities of milit-
ary service, of adult punishment under
the criminal law, and many face the
restrainings of employment and pro-
viding for families. We are told that should
not be able to exist. I submit that the prin-
ciples of concurrent rights and
responsible for it.
I submit that the function of the Congress is clearly to legislate;
it clearly is not to second-guess upon the
constitutionality or validity of its legisla-
tion. Historically and uncontestably, this
is the function of our courts.
As Mr. Speaker, I extend the voting age to 18 by legislative fiat
has been eloquently argued on both sides.
If, for one, I am convinced of this proce-
dures validity, and I am hopeful that the
bility of the people to vote on the
matter without delay.
Mr. Speaker, I do not dispute the
validity of the procedures. I do not dispute the
validity of the procedures. In fact, I am
sustained by the unanimous opinion of the
Association of the Bar of the City of New York. To use
the constitutional argument to defeat
this legislation is not only to extend the
invidious discrimination which exists to-
ward our youth, but to subvert our sac-
ted legislative functions.
Moreover, enactment of the 18-year-
old vote now will be a clear indication at
this critical time of our confidence in our
young men and women and of our desire
to work with them in strengthening our
democratic procedures.
As for the Voting Rights Act itself, to
fail to extend it as is would be an invit-
at to a number of States to resume their
voter suppression practices step by step.
Every discriminatory practice which is
repetitive to all men of conscien-
t.
To fail to extend the Voting Rights
Act as it is would be to betray the prin-
ciples for which many Americans fought
and for which so many died—Martin Luther
King, Jr., Medgar Evers, Mickey Schwen-
ner, James Chaney, Andy Goodman, and
others.
The purpose of the Voting Rights Act
of 1965 was to secure full enfranchise-
ment and the right to participate fully in
civil activities for all citizens. Con-
dera of progress has been made toward
that goal in the Southern States, but there is indisputable evidence that as one
type of discrimination is eliminated, yet
another barrier to political participation
is created by the warped imaginations of
those who seek to prevent black Ameri-
cans from assuming an active role in
politics.
I would submit that the job is not yet
finished that black registration is nowhere
as high as it should be and that
registration goes up, harassments to
running for office and voting go on.
This, I believe, is clear evidence that the
Voting Rights Act must be continued for
another 5 years without its application
the South diluted by nationwide cover-
eage. To do otherwise will be to permit
the States of the South to return to their
discriminatory practices. Failure to pass
this bill would make an about-face in the
assumption of literacy tests, gerrymandering and
change from elective to appointive offices in
some cases.
The bill that the House passed in De-
ember would give the Attorney General
the power to sue to bring voting
rights suits to challenge discriminatory
practices and laws. This would move the
struggle to obtain electoral justice from
the ballot box to the courtroom—with its
attendant delays—and thereby validate
the very success of the Voting Rights
Act.
Almost a year ago, the distinguished
ranking minority member of the Judi-
ciary Committee, the gentleman from
Ohio (Mr. McCulloch) said:
As I understand the provisions of the Ad-
ministration bill which pertain to the heart of
this controversy, they sweep broadly into the
State area where the reenactment of the 18-
year-olds. The Senate bill, by contrast, would
do the very opposite of what the Administration bill
proposes.
Mr. Speaker, the voting rights pro-
visions and the extension of the fran-
chise to 18-year-olds are critically im-
portant to the future of the United States.
To fail to enact them would be a dereliction
of responsibility, a most callous indica-
tion of lack of faith and broken com-
mitments, and an invitation to further
discord and division in America.
Mr. Speaker, passage of the Voting Rights
Act of 1970 will stand as the greatest
achievement of the 91st Congress. By
keeping faith with all Americans, by
diluting the provisions of the 18-
year-olds. I am sure that the bill will be
as successful as the 1965 Act and will be
part of the legacy of this great Congress.
the healing processes to begin immediately. This is the first major step toward reconciliation, a great day for Congress and the Nation.

Mr. WAGNOONER. Mr. Speaker, I have managed to discuss this bill before under its number. Of course, I am joined by many of my colleagues from all parts of the Nation and of both parties and of all shades of political philosophy and I am disturbed by what many are saying to me.

A general theme runs through the comments of many of those who favor passage of this bill and that is, though it is undoubtedly unconstitutional, we cannot vote against the 18-year-olds.

The younger generation, be they 18, 19, 20 or whatever relatively young age, is complaining of the burden of immaturity and the lack of courage in the convictions of some adults in the so called establishment. This is a prime example of it, it seems to me. If there is a danger of the 55-year-olds, the young and there is the danger of changing the voting age is unconstitutional, and there are many, then they should have the courage to say so and vote so. But that is not the case, I am sorry to say.

The majority of the House Committee on the Judiciary has said it is unconstitutional. How else can a sincere man vote then? He must vote “no.” He must vote to send this measure to conference and that is what I will do.

I believe the provision on the rule should be voted down and this bill sent to conference because the Senate has rewritten the House-passed bill on voting rights and added the extraneous matter of lowering the voting age. It is wrong to agree to these major changes with no debate and no conference. I remind you that no committee of the House has given any consideration to either the Senate version of the voting rights bill or the 18-year-old provision. We are being asked to ignore all these changes for fear of arousing the youth of the Nation. I say that we will arouse them, if at all, because we do not have the courage to vote against something we believe is in the best interest of the country.

Mr. Stokes. Mr. Speaker, I rise in support of the resolution. Almost a year ago today, when the Nixon administration was clearly showing the first signs of equivocation on the House bill—H.R. 4240—to extend the 1965 Voting Rights Act, I stated here on the floor that all those who supported the attempt to kill this measure would be intentionally aligning themselves with the forces of bigotry and discrimination. We attempted to delineate the absence of both morality and logic in the administration’s arguments against the bill, and called on the consciences of my colleagues to resist that overt maneuver to quash one of the most effective civil rights laws ever passed.

As you know, Mr. Speaker, that speech was made in vain. On December 11, in what I later described in a newsletter to my constituents as the “most disappointing moment” of my brief congressional career, the House narrowly adopted the administration’s substitute proposal, thus apparently terminating the Voting Right Act. It was not a day to be proud of in a country founded on the concept of equality of all men.

Moreover, we have taken us full turn, and the Members of the House are presented with one of life’s rarest moments—the chance to “do it all over again.” The other body has taken the precise action which I recommended in that speech. It has introduced the salient features of the substitute bill in a package with a Voting Rights Act extension. No one ever doubted the desirability of the administration’s suggestions that the Congress impose a new framework for national and state efforts to eliminate unwarranted registration requirements for voting in presidential elections. Indeed, a special Democratic National Committee task force of which I was a member recently made identical recommendations in its final report.

Yet, neither of these bear directly on the issue of discrimination against black voters in the South. That was, and should be, approached under the authority of the Voting Rights Act. Certainly, the need still remains. In a report published less than a year ago the U.S. Commission on Civil Rights recounted a tale of horrors they had recently observed in Mississippi local elections which could easily have been written at the turn of the century. Bomb threats; intentional deceptions regarding how to file and when and where to vote; armed levies “encouraging” nonparticipation—it is all there. No, Mr. Speaker, the need still remains. The central question is whether the will of this body to continue to insure equal justice under law does likewise.

18-YEAR-OLD VOTING

Moreover, I would pass the pending resolution the House will vote have the opportunity to not only rectify past error, but also to include in that rectification a measure which I have always considered another badly needed reform in our democratic system. I refer, of course, to the extension of the voting privilege to 18-, 19-, and 20-year-old Americans.

The rationale for passage of this provision are as familiar as they are persuasive. Each year, statistics clearly reflect the participation of young people between 18 and 21 who are marrying, having families, paying taxes, and accepting all other responsibilities of citizenship. Seventy-nine percent of our youth in that age bracket now have high school educations. In 1920, 17 percent did. Similarly, 47 percent of today’s 18-year-olds attend college. The figure for 1920 was 18 percent. And the most familiar contention of all is still the most meaningful point of those ages can be required to fight and die half a world away, because a handful of men here in Washington have the power to declare that their fighting and deaths are “in the public interest,” then surely those young men have a rightful interest in helping determine who those men exercising such power will be.

I have only come across two basic arguments against the 18-year-old provision. The first and easily the more impressive is that the provision is unconstitutional. Those against extending the right by statute have put together a very impressive list of constitutional lawyers who agree with their position. But so do we have the supporters. Writers, scholars, thus splitting into a choice but to make our own analysis and decide the question in the light of present political realities.

It would not seem to require an unreasonably broad reading of section 5 of the 14th Amendment and Katzenbach v. Morgan to substantiate the proposition. In Morgan, which upheld the Kennedy amendment to the Voting Rights Act prohibiting enforcement of New York’s English literacy requirements
June 17, 1970

CONGRESSIONAL RECORD - HOUSE

2081

for voting, the Supreme Court strongly indicated that the Congress did have the power under section 5 to assure equal protection by imposing its own judgments on matters falling within the purview of section 2. But to do so, the Court felt, would constitute an invasion upon any state interests served by English literacy requirements. It was for Congress, as the branch that made this judgment, to assess and weigh the considerations.... It is not for us to review the Congressional resolution of these factors. Instead, we are called upon to decide a basis upon which the Congress might resolve the conflict as it did.

Applying this test to the present situation, it would appear highly likely that the Court would be just as hesitant to question our judgment now as before. It would be equally likely that there exists no "basis upon which we might resolve the conflict," particularly in view of the statistics and facts concerning the present responsibilities and intelligence of persons between 18 and 21. Accordingly, it is my opinion that should the measure pass, it holds every chance of being upheld in the courts.

With the constitutional question resolved, the issue is reduced to one of political expediency. Enter here the proponents second, and worst, argument—that the philosophies, life-styles, and political activism of a number of young people within this age group somehow indicate an unfitness to exercise the requisite maturity to merit the franchise.

The argument is almost absurd enough to collapse on its own, but is pernicious enough to warrant a further comment. America has never produced a group of young people as sensitive, aware, and socially conscious as those 10 million youths now between 18 and 21. They care desperately for their country, and especially for its less fortunate citizenry. They are far from the idea that they may serve as an immoral war in Indochina fraternizing away our human and spiritual resources, the poisoning of the environment they will be expected to live in, and the twin paradoxes of poverty and racial hatred in a nation dedicated to brotherhood. Should these concerns reflect immaturity, our society is in grave need of a healthy dose of immaturity. But it is not necessarily immaturity—in fact it is quite the opposite. These young people have much to offer the political processes. To whatever degree they are now disenchanted from those in authority, granting them the power to directly influence the election or defeat of those officials can only diminish that alienation. They will be good citizens, and our democracy will be the beneficiary of their participation.

Mr. CONDIT. Mr. Speaker, although my colleague, the Honorable Stuyvesant Chinsholm, and I were present today during the debate on the passage of House Resolution 914, we were both unexpectedly called away from the floor and were unable to respond to the final passage rollcall vote. As a co-sponsor of legislation extending the Voting Rights Act of 1965, and having testified before the Judiciary Committee in support of extension of the Voting Rights Act, as well as having cosponsored legislation supporting the right, secured by an overwhelming majority, I had been present I would have voted most enthusiastically in support of House Resolution 914.

Mr. HUTTONCHIN. Mr. Speaker, back in 1907 Charles Evans Hughes, then the Governor of New York, said in one of his speeches that the Constitution is what the judges say it is. More than a single generation of our people have been constitutionally, and as such, and not by casting his vote without regard to constitutionality. If the Congress is to maintain its equal station as a coordinate branch of the Government, it cannot do so by considering the constitutionality. The Constitution does not expect Congress to do that. On the contrary, the Court assumes that Congress acts within the limits of the Constitution, and that every Member considers the constitutional question in deciding how he shall vote. The Court has great respect for acts of Congress. It conceives its duty to uphold the constitutionality of any act of Congress, and at all possible, on the basis that Congress, too, is sworn to support the Constitution, and would not act without regard to its provisions.

We are now debating, for a single hour, a resolution, and at the end of this hour the House will vote that resolution up or down. Its adoption will mean the House has concurred in Senate amendments to the voting rights bill, and Congress will have attempted by statute to establish a uniform voting age, at 18, in every election throughout the land, whether the candidates be for local, State, or National office, and whatever may be the issue submitted to the electorate. Out of a sense of deep conviction, Mr. Speaker, I submit that Congress is without power to fix a voting age by statute, and under my obligation to support the Constitution I must vote against the legislation I believe to be unconstitutional.

Ours is a Federal Republic. Each of us has a dual citizenship. We are citizens of the United States, but each is at the same time a citizen of a State wherein we reside. Not all of our rights accrue to us because we are citizens of the United States. Some come to us through our status as citizens of our respective States. Among the rights we have as State citizens is the right to vote. We vote in our capacity as citizens of our State, not as citizens of the United States, when we participate in choosing the presidential electors to which every Member, when we elect a U.S. Senator from our State, when we send a Member to this House from our State, when we elect our State judges and State legislature, and other officials beyond the local which our State constitutions and our State laws provide shall be chosen by the people. Likewise, we act in our capacities as citizens of our State when we decide issues at the polls by referendum.

The qualification to vote, in our system, are determined by State constitutional provision. Congress has no function in it. The Federal Constitution is very clear on the point. At no place does it confer upon citizens of the United States the right to vote. Instead, it limits the power of the States to prescribe voting qualifications for those of their citizens who are also citizens of the United States. The limitations on the power in the States. But it provides that any State which denies citizens of the United States who are citizens of that State the right to vote, being 21 years of age, shall pay the price of reduction in the basis of its apportionment in this House.

In the law there is a maxim of construction, that general language must not be construed to negate specific provisions. The Voting Rights Act is interpreted only when vigor is attributed to all of its provisions. No provision is properly construed if it makes useless some other; and certainly the broad reach of the 14th Amendment should not be favored over the specific provisions of the Constitution. Instead, the 14th Amendment should be interpreted with the other provisions of the Constitution in mind, and meaning given to them all.

And so I arrive at the decision in Katzenbach against Morgan, about which much has already been said in this debate today. Among the provisions of the 14th Amendment to the Federal Constitution, which superseded New York State's statutory requirement that in order to vote there citizens must demonstrate an ability to read English. We said it would be a violation of the Equal Protection Clause if the Six states of education in a school under the American flag where the dominant language was Spanish. At issue before the Court was the constitutional power of Congress to invade in this way State autonomy. Resorting to its practice of searching strenuously for some way to uphold a congressional enactment, the Court
rested its decision on the enforcement section of the 14th amendment, by which Congress is empowered to enforce, by appropriate legislation, the provisions of that amendment. The Court had accepted the argument that the particular provision of law at issue was intended by Congress to further secure to citizens of the United States residing in New York the equal protection of the laws.

In its reasoning, the Court said that in order to exercise its powers under the 14th amendment, Congress might direct a course of action at variance with State law, even where the State law might be constitutional. When that happens, of course, the State law is superseded because of the supremacy clause in the Federal Constitution.

Congress based its power to enact the Voting Rights Act of 1965 primarily on the 15th amendment, under which it may enact appropriate legislation to prevent any State's denial of the right of citizens of the United States to vote on account of race. In 1966, Congress had discovered that literacy tests were being used in some States as a device to deny black citizens their right to vote. It suspended such tests in those States during a period of time not to exceed one year, to give the Federal Government the opportunity to assure any citizen otherwise qualified an opportunity to register to vote without regard to his race. The Voting Rights Act, I repeat, was based primarily on the 15th amendment, not the 14th. The face of a simple extension of the 1965 Voting Rights Act for another 5 years, the present administration sought an alternative. Turning from the 15th amendment to the equal protection clause of the 14th, the administration proposed to suspend literacy tests throughout the United States. No one had previously suggested any constitutional impediment to literacy tests in themselves. The case against them could be made only when they were used as a device to deny citizens the voting franchise on the ground of race or color. In order to suspend them across the country, the entire device or device concept was abandoned, and the equal protection concept adopted. But to uphold that proposition, Congress would have to be found with power to supersede otherwise constitutional State voting qualifications. Katzenbach against Morgan was relied upon.

The administration's alternative in the House went still further. It overturned State voting requirements as to residency which the Court had defended. The right of the States to protect their own local elections and the qualifications to vote in local elections, the alternative in the House pretended to reach only Presidential elections. In order to vote for electors of President and Vice President within a State, Congress says in the bill we are now debating that a citizen can vote there even if he cannot comply with the residency requirements of that State. We set the 18th amendment requirement which will stand in lieu of the State law or Constitution. But having got the Federal foot in the door, we go no further at the present time. We seem to have overlooked the fact that Congress does not have power on their own to provide less residency requirements in order to vote for President, and that many States have used that power. Their constitutions and their laws already meet this problem which has been engendered by the moral majority of the population. Is it either necessary, desirable or wise to assert Federal power—particularly when it is based upon a tenuous and untried concept of constitutional law—to deal with a problem that citizens are already meeting? I think it is not.

I regret my decision, when this bill was before us in Committee of the Whole, that I did not offer an amendment to strike it. In Katzenbach against Morgan I did not believe them constitutionally within the power of the Congress then, and I am of that same opinion still. The reason I did not offer to amend the bill by striking out the residency provisions was that after they amended the bill accordingly. Now strike the nationwide literacy provisions had fared, I know it would be a waste of the time of the House. But both nationwide literacy test bars and lesser residual requirements have been knocked out in Katzenbach against Morgan, rest uneasily upon a weak foundation.

Encumbered with these unconstitutional provisions, I could not in good conscience vote for the Ford substitute for the voting rights extension which passed the House.

But when the bill reached the other body they did it more constitutional mischief. Congress, for example, by amendment, in effect amended the Constitution to empower Congress to define voter qualifications, Senators argued, then here was a vehicle to accomplish a uniform voting age at 18 throughout the country. And they amended the bill accordingly. Now it is again before us, through this resolution. How unwise it is, my colleagues, to vest in Congress the power to set voting qualifications.

If Congress can say that citizens of 18 can vote, it can set qualifications and in all elections now, it can by statute increase the age to 20 or 21 or reduce it to 16 or 17.

If Congress can reduce residency requirements to vote for President in the several States, it can at some future time increase them.

If Congress can constitutionally govern voting age qualifications in all elections, it can govern residency requirements in all elections—and it can control all other voting qualifications within the States. Congress will, last and gentlemen, what this all does to the role of the States in our governmental system. Repeatedly, the people of State after State have turned down proposals to lower the voting age, Oregon did it only 2 or 3 weeks ago. The people of my own State of Michigan did it in 1966. Every indication is that they would defeat the proposal more overwhelmingly now than then. In 1966 they defeated it nearly 2 to 1. We put an amendment to the people of my own State of Michigan to determine the age they would be for us to cavalierly set aside their decisions at the polling places and in the ballot box, and impose upon them conditions contrary to their will. That is universally agreed that their own decisions have been completely constitutional. Such decisions have been within their power to make, and the people of the States retain that constitutional power, even after Katzenbach against Morgan.

How unwise is it for Congress to overturn the constitutional decisions of the people of the States made in their voting booths, through an assertion of new Federal power which rests on a tenuous and untried concept of constitutional law, a power which exists only to the extent Katzenbach versus Morgan stands as the latest interpretation of the law of the land. We had best not rest our power upon invalid decisions because those decisions are overturned, or infrequently in recent years than heretofore. Katzenbach versus Morgan did not break virgin ground. The Court had considered section 5, the enforcement section of the 14th amendment. And in order to erect Katzenbach versus Morgan, the Court, in effect, overruled earlier decisions. Just as Katzenbach versus Morgan overruled the civil rights cases of 1883, Katzenbach versus Morgan might be overturned in the future—and perhaps sooner than later.

If Katzenbach against Morgan actually holds that Congress has power under the 14th amendment to supersede constitutional State law with the assistance of the supremacy clause, consider how completely this new doctrine overturns the interpretations made by those who lived through the period to 14th amendment was adopted and who understood its great purposes. The 1868 civil rights decisions held:

Until some State law has been passed, or some State action through its officers or agents, which has, or is deemed to have, the effect of depriving any person of the equal protection of the laws within the State, its actions, in whatever form, are subject, in respect to citizens of the United States, to the regulation and protection of the Federal Government. When that time arrives, our federal system will be utterly destroyed, and any purpose of the States in our system may be gone. Then, it may be that our Constitution will not last much longer. And the American people will be willing to support a dual system of government, State and Federal. Then, it may be that our Constitution will be adopted in a unitary system, with a single government in active power in every State, and there will be a grant of power to the Federal Government. When that time arrives, our federal system will be utterly destroyed, and any purpose of the States in our system may be gone.

On the contrary, under the doctrine of Katzenbach against Morgan, Federal government has now power to enact any legislation deemed by it appropriate to further the equal protection of laws to be enjoyed by citizens of the United States. It may in like manner implement the due process clause and may revitalize the privileges and immunities clause in the 14th amendment. The amendment that loses its character as a limitation upon the States and becomes a grant of power to the Federal Government. When that time arrives, our federal system will be destroyed, and any purpose of the States in our system may be gone.

If the Congress now has power to enact any legislation deemed by it appropriate to further the equal protection of laws to be enjoyed by citizens of the United States within the several States. It may in like manner implement the due process clause and may revitalize the privileges and immunities clause in the 14th amendment. The amendment that loses its character as a limitation upon the States and becomes a grant of power to the Federal Government. When that time arrives, our federal system will be destroyed, and any purpose of the States in our system may be gone.
I am deeply concerned about the road of constitutional interpretation we are starting to travel. If Congress may, by mere statute, set aside State action legislatively exercised in the matter of the residency and apportionment qualifications to vote, it may travel to itself the whole power to control voting qualifications. I cannot believe this course to be constitutional. I shall vote to amend the resolution now before us, to the end that the Power so sent be sent to the President. If the resolution is not amended, I shall vote against it.

To vest in Congress the power to define voter qualifications is most dangerous. If Congress can do it, their qualifications to vote within the States, it can define the electorate which shall choose the Congress. The Constitution specifically provides that the voters for Congress within each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature. The power to define those qualifications rests with the people of the State under our Federal Constitution and guaranteed to them by the 10th amendment. No legislative body should have power to define the electorate which chooses it. The Constitution gave no such power to Congress. Neither did the 14th amendment.

The doctrine of Katzenbach against Morgan is unsound constitutional law. It cannot stand without being destructive of our system. The Congress should not seize upon it as authority for asserting a power which the people of the States never delegated to it.

Mr. EDWARDS of Alabama, Mr. Speaker, the question of lowering the voting age qualification to 18 is a very serious one. It involves more than just determining whether 18-year-olds are qualified to participate in the electoral process. It encompasses the entire question of State-Federal relationships and the powers reserved to the States.

Many of us in this body are wrong to wait any longer in granting the voting franchise to 18-year-olds. They contend that 80 percent of the group between 18 and 21 is high school educated and many of them are better educated than this group is probably among the most informed citizens in the country.

Basically what they say is true. In speaking to high school and college groups in the First District of Alabama and elsewhere I continue to be impressed by their high level of education and their great awareness of and concern for the world about them. For all its critics, our educational system is turning out well-educated, competent citizens.

However, all this is completely beside the point in considering the attempt to change voting qualifications by a congressional act. There are two pertinent passages in the Constitution which would certainly seem to preclude this action.

The first is section 2 of article 1 of the Constitution which sets forth the qualifications of voters in the following way: "Electors of each State shall have the qualifications requisite for electors of the most numerous Branch of the State Legislature."

Clearly the Founding Fathers intended that national electoral qualifications be determined by the States. However, the supporters of the statutory age change point to the 14th amendment of the Constitution for authority. But in doing so they ignore a very important section of that amendment. Section 2 of the 14th amendment reads:

"But when the right to vote at any election . . . is denied of any of the male inhabitants of such State, being twenty-one years of age, . . . the basis of representation therein shall be reduced in such proportion as the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State. (Emphasis added.)"

Mr. Speaker, there is no way anyone could possibly construed that the legislators that ratified the 14th amendment in 1868 intended to transfer their powers of determining voter qualifications to the Federal Government. In fact the amendment implicitly confirms that right in my opinion.

What then is the answer? Is opposition to the Senate amendment a vote against permitting 18-year-olds to participate in elections? Well, of course not.

The proper way of granting 18-year-olds the right to vote is either through constitutional amendment or, as in the case of women, to be granted the right to vote through ratification of the 19th amendment, or through State law. But if we are to pursue this matter on a national basis, then I must say as a matter of fact that I would vote for a Constitutional amendment in order to permit the people of the United States to decide the question of giving the 18-year-olds the right to vote.

Mr. Speaker, the American people have a right in expressing their opinion in a matter that changes the basic structure of the Constitution. And their will can only be clearly expressed through consideration of a constitutional amendment properly presented to the States for ratification. This is the constitutional approach. We cannot allow political expediency to override the clear mandate of the Constitution.

Mr. ICHORD, Mr. Speaker, I have long been a champion of 18-year-olds voting and in this regard no person can accuse me of being a "Johnny-come-lately," for I favored the concept back before it was popular among the 18-year-olds. It was 17 years ago that I first introduced a bill in the Missouri Legislature to amend the Missouri Constitution to permit 18-year-old voting. I have not changed my mind. If the Nation considers a young man old enough to fight, he should be considered as old enough to vote. In the Missouri Constitution the 18-year-olds were given this right.

Mr. Speaker, I cannot abuse the Constitution by trying to give 18-year-olds the right to vote by statute. This, in my opinion, is what the House of Representatives is being asked to do today. I strongly favor the concept of 18-year-old voting, but I just as strongly favor the concept of adhering to the words of the Constitution. I did not officially become a Member of this body until the following oath was administered:

I, Richard H. Ichord, do solemnly swear that I will support the Constitution of the United States against all enemies, foreign and domestic, that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

"To support and defend the Constitution" is not a sworn responsibility that can be passed on to the President or the courts. It is the duty of each Member to study and interpret the Constitution to the end that no action on his part will be violative of the grant of powers to the people. The passage of this law will directly violate the Constitution. I cannot follow the political advice given to me by one Member of the House to thumb my nose at the people. He is opposed to the concept of 18-year-old voting but is voting for the measure. "Why worry about the matter," he says. Go ahead and vote for the bill. Make the 18-year-olds happy and the Supreme Court will throw the matter out.

Mr. Speaker, this is exactly what the Supreme Court will do, I believe, if H.R. 4249 is passed purporting to give 18-year-olds the right to vote. It is clearly unconstitutional and has a face. Let us examine the Constitution.

Article I, section 2, respecting the election of Representatives to the Congress and the 17th amendment respecting the elections of Senators recognizes that voting qualifications are governed by State law, Article I, section 4 gives Congress the power to regulate the times, places, and manner of holding elections for Senators and Representatives but the Congress has no power to prescribe voting qualifications. This is a power which is reserved to the States or to the people under the 10th amendment subject to the restrictions imposed upon the States by the 15th amendment which forbids the States from denying the right to vote on the ground of race, color, or previous condition of servitude; the 17th amendment which prohibits the Congress from legislating as to the qualifications of sex and the 24th amendment which prohibits the denial of the right to vote for President, Vice President, Senators, and Members of the House for failure to pay a poll tax. The protection clause of the 14th amendment would also operate to restrict arbitrary limitations upon the right to vote. But how can any court, either liberal or strict constructionist, say that 21 years is an arbitrary limitation under the equal protection clause of section 1 when section 2 of the same 14th amendment dealing with congressional apportionment and designed to reduce overwhelming representation in Congress of States which deny voting rights to blacks speaks of denial of the right to vote to any of the male inhabitants of such State, being 21 years of age? The Constitution explicitly sanctions 21 years as a voting age qualification. How can section 1 be construed as denying 21 years?

Nor can I understand how the case of Katzenbach v. Morgan, 384 U.S. 641, can be used to support the use of granting 18-year-old voting by statute as a basis for constitutionality. Katzenbach against Morgan dealt with the litigation problem. It did not deal with the age problem which is explicitly men-
tioned under section 2 of the 14th amendment. I fully realize that Katzenbach against Morgan contains some very broad language but the Katzenbach against Morgan case dealt with the Voting Rights Act of 1965; it did not concern an effort on the part of Congress which flies directly in the face of the constitutional provisions I have heretofore mentioned. But even if Katzenbach against Morgan contained provisions giving Congress the power to establish voting qualifications let me remind the Members that we do not now have the same Court that we had when Katzenbach against Morgan was decided.

The granting of 18-year-old voting cannot be effected by statute. It can only be done on the national level by an amendment to the Constitution. Such action can only serve as a mockery of the Constitution. I do not see how the Supreme Court of the United States can construe the act. Thus, this attempt will serve only to raise uncertainties and result in the cruel disillusionment of thousands of young people who hope to be able to vote. Also, Mr. Speaker, though I myself do not have the authority to bring to the attention of the U.S. Supreme Court, a dangerous precedent will have been set. If Congress may at will eliminate classifications at the whim of the moment, the way has been paved for the Congress to assume the role of a superlegislature for all of the States. We will no longer have a constitutional form of government but a parliamentary form. Congress will be supreme.

Mr. PRICE of Illinois. Mr. Speaker, I support the voting right provision of H.R. 4249, but if the Congress insists upon abusing the Constitution by retaining a grant of 18-year-old voting I cannot vote for the bill. Eighteen-year-old voting cannot be granted on the national level without an amendment to the Constitution. I have no alternative except to vote against the bill even though I favor the principle.

One of the major problems which this Nation suffers is a spreading disdain for the Constitution. We are perverting the Constitution, in my opinion as a matter of expediency. Such disdain for the Constitution can only succor those who would substitute force and fiat for a rule of law. A dangerous precedent will have been set. If the bill passes, the President should veto the bill promptly. The Supreme Court should not be required to consider such a political football at a time when the Court is already under great pressure from Members to vote down the previous question.

Mr. PRICE of Illinois. Mr. Speaker, the pending House Resolution 914 to take from the Speaker’s desk H.R. 4249 and agree to the Senate amendment should be approved. H.R. 4249, as amended is a logical and necessary extension of the Voting Rights Act of 1965. It provides effective safeguards against racial discrimination at the polls; we have seen that tremendous headway has been made in this area in the recent years. Congress cannot deny the positive effects of the voting rights act and must not impede further progress toward the full realization of the 15th amendment of our Constitution.

The most controversial components of this legislation are, of course, the provisions under title III, which define the voting rights of 18-year-olds. I have long recognized the need for such revision in this recent voting law. Seven States already have established age limits below the Federal requirement, and no problems have resulted from these statutory provisions. It seems unfair to deny enfranchisement to those under 21 years of age who do not live in those States.

It has been estimated that by 1972 there will be over 11 million citizens between the ages of 18 and 20. We know that those who do not vote in their 18th year will not vote against the rights of the minority and that the overwhelming majority of our youths are deeply concerned with the preservation or restatement of our Democratic ideals. I feel that certain of our present problems can be alleviated if we allow our youths this constructive medium for their voices.

Considering the age at which our youth marries, have children, and pay taxes; considering the age at which they have the right to defend their country in criminal courts; considering the age at which they are called upon to defend their country; and considering the fact, that due to increased communications through various media, the youths of today are better informed and educated than most adults were several years ago: We should enfranchise these young people in order that they do have the opportunity to register their views electorally in the Supreme Court or in the House of Representatives and have presently have of campaigning for candidates of their choice.

The constitutionality of our action has been supported by the Nation’s leading legal scholars. Although the Supreme Court will be the ultimate authority, certain precedents indicate the firmness of the legal ground on which we are treading today.

At this crucial time in our Nation’s history we are faced with the increased alienation of our youth. As one who originally sponsored a resolution providing for a constitutional amendment granting the right to vote at age 18, I have no quarrel with the principle having to do with enfranchisement of the same by statute. I say this in light of the Supreme Court decision in the case of Katzenbach against Morgan—1965—which sustains congressional authority to supercede State laws dealing with elections. Therefore, I urge my colleagues to vote to curtail this situation for the future welfare of our great land.

Mr. MINSHALL. Mr. Speaker, the resolution before us asks the House to confirm, without benefit of hearings and with only 1 hour permitted for debate, an amendment lowering the voting age to 18. This amendment was impulsively added by the Senate to the Voting Rights Act amendment in the House passed last December 11.

Since the Senate acted on impulse, it is our clear responsibility to act with thoughtful deliberation today, mindful that those who are closest to American people their right to work their will on this issue through constitutional amendment.

This is the manner in which the 15th amendment was adopted to assure the right of all citizens to vote, regardless of race, color or previous condition of servitude. It was also by constitutional amendment and amendment of the State statutes. Those citizens were granted the vote under the 19th amendment. This is the procedure which has remained unchallenged until now throughout our entire 162 year history of constitutional Government.

Are we to be stumped in this ended hour of time today into overthrowing nearly two centuries of unchallenged precedent? I refuse to be. I do not support the hasty, ill-considered statutory action which the Senate has proposed. Political pressures or political expediency cannot persuade me to vote for lowering the voting age in this manner.

If we are to lower the voting age, let us go about it in the proper way which, if it receives the necessary approval, will not be jeopardized by years of possible court entanglement.

Let us work the will of the people by submitting the 18-year-old issue to the American people by way of an amendment to the Constitution: the approval of two-thirds of the U.S. House of Representatives and of the U.S. Senate and ratification by three-fourths of the States.

This is the correct, the constitutional and the truly representative means of extending the franchise.

Mr. LLOYD. Mr. Speaker, I previously supported H.R. 4249, the voting rights bill, when it was originally before the House. As one who has consistently over the years voted in favor of the elimination of all artificial discriminations based on race, color, or religion, it is completely logical to me that the voting rights legislation, upon which this Congress acts, should apply to all of the 50 States rather than to target in on a minority.

After passage of the voting rights bill by this House last November, the Unamendment added an amendment to reduce the voting age of all voters in the United States from 21 to 18, and this is the principal issue which faces us today.

Originally, over the years I have not been favorable regarding extending the voting age to 18 because I never felt the restriction was discriminatory, inasmuch as every individual is given the authority at the appropriate age, and all of us over 21 are entitled to the same so-called discrimination. On this issue, mine has been the experience of a convert.

In recent months I have attempted to study this issue in considerable depth and have talked to many of my colleagues who represent those States where the 18-year-old vote has been authorized by State statute. I have been impressed by the fact that in every case those colleagues have endorsed their support to the 18-year-old vote and have said the general pattern of election returns has not been significantly altered by extending this vote to this added group of individuals.

In addition, I do not feel it is my privilege to communicate closely with hundreds of younger people in the last few years and to analyze with them their concern for
June 17, 1970

CONGRESSIONAL RECORD—HOUSE

issues resolved by the voters which eminently affect their lives but concerning which their influence is substantially reduced because of their inability to vote. I can state flatly that the abusive, violent campus militants dramatized by our community’s press do not represent the great body of our youth whom I believe to be the greatest young people in our Nation’s history.

In my political campaigns since 1952, I have purposely done my best to go door to door and meet the voters. In recent years I have done this between the hours of 5 and 7 p.m., when most of the family is at home. From this personal experience, I am not aware that there is one in 21 who have any great interest in election issues than those of interest in election issues than those between the ages of 18 and 21. As a matter of fact, I believe that by reducing the voting age, we will provide an input of idealism, enthusiasm, concern, and the appreciation of the larger measure in the young, that will be an asset in our quest for better government. I am particularly impressed by their idealism so often lacking in cynical adults, and I am aware that the country needs this renewal of idealism. In addition, by reducing the voting age to 18, we will open up a meaningful flood plain in which our younger people can constructively channel their great energies and enthusiastic desire to participate in the social and economic progress of our country. Everyone admits that developments in education and communication permit our younger people to have greater political maturity than existed in our pioneering days.

It would be easy to find procedural and other reasons to dodge this issue, but I do not choose to do so. The Senate amendment provides that the courts shall act expeditiously in passing judgment on the constitutionality of the language authorizing the 18-year-old vote. Rather than finding a way to dodge the issue, I prefer to take advantage of the opportunity we have today to make constructive and positive changes in our voting laws. There will be those who say this is too liberal a view. As I have said in other issues involving civil rights, it seems to me that the constructive conservative view is to make beneficial use of all our natural and human resources. If we do not conserve, develop, and benefit from the huge potential of this human resource, we are not properly utilizing the tools with which we have been blessed, and indulging needlessly and debilitating handicaps.

Mr. Speaker, for a long time I have been advising decent students and other concerned young people to steer away from violence as a solution and to work constructively within our system. In the language of the legislation provides that gateway of opportunity and admits them into the system.

Mr. PREYER of North Carolina. Mr. Speaker, I support the Voting Rights Act of 1970. There are provisions of this bill with which I disagree but the arguments in favor of its passage are far more compelling than specific objections to particular actions that many of us have.

We are a divided, frustrated, and bewildered country. Calm men such as John Gardner speak of social disintegration and grave danger. He said:

While each of us pursues his selfish interest and comforts himself by blaming others, the nation disintegrates; I use the phrase soberly: the nation disintegrates.

The conservative Fortune magazine recently put it this way:

For the first time, it is no longer possible to take for granted that the U.S. will somehow survive the crisis that grips it.

It is vain to hope that we can solve our crisis by somehow eliminating controversy. There is no chance whatever that we can escape from the critical and divisive issues in the future. What we can do is to improve the process by which we discuss and reach decisions on issues—and the improvement must be quick and it must be visible.

As Fortune puts it:

The first and overriding goal of this torn country must be reconciliation.

Reconciliation does not mean sweetness and light. Mainly, it means achieving unity "through a shared sense of forward motion, of hope." The malaise from which we suffer is that we no longer believe in the belief that we are moving forward, that we are making some progress in a worthwhile direction.

It would be calamitous at this time to take a backward step. When reconciliation is our great need, it is disastrous wrong to say to 18-year-olds, "we do not think you should vote because some of you are causing too much trouble." When unity is so badly needed, it is wrong to say to our young people that we are not yet sure of your capacity to be full citizens, so we will keep these literacy tests.

There have been hopeful signs in the last few weeks that we are moving toward reconciliation. Students are turning to the system, relying on the ballot box for results, rather than on the bullhorn in the streets. Great universities are reasserting standards of civility in their participation in determining their role as institutions of reasoned analysis rather than battlegrounds of mass emotions. The excesses of the past few years, the incredibly loose talk about the rottenness of our society and all our institutions is slowly moderating. We are haltingly regaining our sense of balance. We are beginning to realize again what most of us have really always believed—that the ideal end of government is progress, not inaction.

It is absolutely crucial that we make progress—highly visible progress—toward some goal that the mass of mankind regards as worthy of man’s best effort.

A vote for this bill is a vote moving forward, rather than turning back. It is a vote for reconciliation and against divisiveness. It is a vote for including Americans, rather than excluding them. It is a vote for facing our domestic concern. It is a vote for making a drawing a circle to bring people in, rather than closing one to keep them out. It is a vote for cooperation, rather than confrontation; for dialog, rather than rhetoric; for understanding, rather than self-righteousness; for our common humanity rather than the differences among men. It is a vote for hope.

Mr. BILDE of Ohio. Mr. Speaker, I rise in opposition to House Resolution 914, providing for agreement to the Senate amendments to the bill H.R. 4249, the Voting Rights Act amendments. I do so because the Senate amendment is clearly different from the bill which passed the House with my support, and because the provision which would reduce it to 18 the voting age for National, State, and local elections is in my opinion unconstitutional.

The Republican Party has historically supported a reduction of the voting age from 21, the age requirement as contained in section 2 of the 14th amendment of the U.S. Constitution.

But this historical support by a party dedicated to reform and progress has never included in its consideration an approach in violation of the three separate provisions of the Constitution which vest power to set voting qualifications in the States: article I, section 2; the 10th amendment; and the 17th amendment.

It is Congress’ responsibility to pass constitutional legislation. Proponents of the 18-year-old change have stated that the Supreme Court would be able to decide the issue in time for the national election in 1972. But, since Washington does Congress willfully abdicate its responsibilities to the Supreme Court? Besides, a memorandum from William H. Rehnquist, Assistant Attorney General points out:

While the delayed effective date of the Act undoubtedly assures sufficient time for a final decision of the Supreme Court of the United States prior to the first of the 1972 Presidential primaries, it allows completely in sufficient time for the numerous municipal election regularly scheduled in the spring of 1971, and for any such determination prior to the holding of bond elections.

In the best traditions of Federalism; Congress is under a constitutional mandate to pass upon the constitutional issues in legislation, with power having been given the courts to decide if legislation as passed Congress violates any individual’s rights. Much criticism has been leveled at the Supreme Court for legislating in its decisions. The approach being contemplated today would hand to the Supreme Court total responsibility over a question about which there is little doubt as to its unconstitutionality.

From all that has been written on the issue, there is almost universal agreement that the issue is unconstitutional.

As just one of the many constitutional authorities who have come out against the lowering of the voting age for local elections by congressional statute, Mr. Paul G. Kauper of the University of Michigan Law School states:

The proposal has monotonous consequences. If enacted it would be a bold and unprecedented intrusion into state power. If any of the states to fix voting qualifications and would raise what I regard as very serious and substantial unconstitutional questions.

Mr. Speaker, the Congress is supposed to be a responsible body. We all know that there is only one permissible procedure—the one which was used 50
years ago in enfranchising women—and that is by a constitutional amendment. To attempt to lower the age requirement by statute is to follow expediency in the face of the Constitution. It is to make a mockery of all that we stand for.

I favor a reduction in the voting age; I always have. Young persons who have finished their high school education, who are of draft age, who are required to pay taxes, and who are legally responsible for their actions, should be given the opportunity to partake of the greatest freedom on the face of the earth: To vote in totally free elections and to thereby choose the men who run our Government.

Young persons should be given irre- covable voting rights. But it must be done constitutionally. They are the ones who will inherit our constitutional traditions which they must live by if they are also going to inherit a stable and responsible government. To bow to expediency would only be to bring on a government hampered by the rule of law and tradition, but upon expediency of power and political gain.

Mr. DENNIS. Mr. Speaker, this afternoon we face one of the most far-reaching measures before this Congress, involving one of the most important issues before the Congress, voting rights under the 15th amendment.

First, voting rights under the 15th amendment;

Second, the 18-year-old vote by congressional statute;

Third, nationwide abolition of literacy tests by an act of Congress; and

Fourth, congressional statutory abolition of State residential requirements in voting for the President.

All of these issues involve human rights and delicate questions regarding our federal system, and the three last-mentioned involve grave questions of constitutionality. That these questions have been placed in one package is regrettable, and reflects no credit on the procedures of this House that such questions are to be summarily disposed of with 1 hour’s debate.

All Members of this body have, of course, a duty to support the Constitution. We are charged with a duty to support the Constitution, for legislation, however desirable, which a Member believes to be contrary to the Constitution. Under our Constitution, voting qualifications are and always have been determined by the States. I believe that congressional statutory action to abolish residency requirements and non- discriminatory literacy tests and to establish a nationwide 18-year-old voting age are, alike, contrary to the Constitution. Lassiter v. Northampton County Board of Education, 360 U.S. 45, upholds the right of the States to adopt and enforce nondiscriminatory literacy tests, and Katzenbach v. Morgan, 384 U.S. 418, which some rely upon to uphold a nationwide 18-year-old vote by means of congressional enactment, upon analysis fails to do this; and its more sweeping language and philosophy are scarcely likely, I think, to be persuasive in third connection to the present Supreme Court.

I have voted to give the franchise to 18-year-olds, but that was as a member of the Indiana General Assembly, where such a vote ought to be cast and where my successors can do likewise whenever they wish. I did not come here to vote against a provision of the Constitution of the United States. I understand them, and, therefore, contrary to my oath of office, and I shall not cast such a vote today.

Mr. TIERNAN. Mr. Speaker, I rise today to express my strong support for House Resolution 914.

Time is of the essence. The 1965 Voting Rights Act is scheduled to expire on August 6. This is the most effective piece of legislation of its kind. We must assure that discriminatory voter registration practices are not re-instated. But more important than that, there is a long way to go. In over 149 counties in only four Southern States, less than 50 percent of Negroes of voting age are registered.

One of the most important additions to the original bill is the nationwide ban on literacy tests, a law that to its advocates, is the legal principle of non-discrimination, spells death to the man or society which it encompasses. It is not restricted to one area of the country or to one class or one race or one age. It must be dealt with uniformly and firmly.

In the 1960 election, Negroes in Alabama, to which I allude, were the group which would lower the voting age to 18. The arguments pro and con on this provision have been stated again and again. At this point I would merely add that many of our 18-year-olds are far more intelligent, far more aware of what is going on and far more concerned about our quality of life than were many of us at the age of 21.

As for the constitutionality of this point, I personally believe that it does come within the letter of the law. At this time, however, this is a moot question. The answer will only be known by enacting this provision and letting the Supreme Court rule on it.

If those who oppose this section on constitutional grounds are sincere, then let us simultaneously enact legislation which will make groundwork for each State to vote on this provision. This longer process, however, may well last beyond the 1970 and the 1972 elections, and thus the need for passage of the bill before us today is evident.

Mr. Speaker, we are a nation with new and healthy ideas, yet we are a people unable to communicate. The channels of political process must be opened. Violence and violence are not the only alternatives. There is another—democracy—the ballot box. Let us insure that it is made equitable; for if it is equitable, I truly believe that it will be effective in helping to solve many of our present problems.

Mr. Speaker, only four compelling arguments have been put forth with regard to why 18-year-olds ought to be given the right to vote. Many emotional arguments have been presented, as well as why this ought not to be the case.

The proponents of this latter view maintain that 18-year-olds lack the necessary maturity; that because of the violence and current demonstrations and the so-called "radicalism" of some individual students that all 18-year-olds should not be granted the opportunity to vote. Both of these arguments are rather specious in their reasoning and lay more stress on the public’s reaction to the campus violence of the recent past than on the present day situation.

I am sure that my colleagues will agree with me that the Congress ought not to be put in the position of merely following the results of the latest Gallup poll nor should we act in response to the fear of important educational and political leaders. The constitutionality of our action today is strongly supported by many eminent jurists. Mr. Paul Freund and former Solicitor General Archibald Cox have correctly pointed out that while States do indeed have the right to establish voting requirements, section 5 of the 14th amendment limits that right. Section 5 gives Congress the power to enforce the equal protection clause of the 14th amendment through appropriate legislation. The Supreme Court took note of this in 1966 in the Katzenbach against Morgan decision when it upheld a provision of the 1965 Voting Rights Act which banned certain literacy tests as voting qualifications. It appears that if the opponents of this bill use the Morgan decision to support the residency requirement provision as well as the nationwide literacy test ban, they cannot, in good conscience, deny the validity as a constitutional basis for the 18-year-olds vote. Most important in this regard, no matter what the varying opinions of academic scholars might be on this question, the Congress not abdicate its responsibility to decide this issue today.

The Supreme Court will, of course, be the final arbiter, but the Congress has an obligation, a duty, to assert its own constitutional power and responsibility and to utilize its own best judgment as to the validity of this measure. It is the Congress that must act today. There is no need to have this question resolved through the process of a constitutional amendment, which is so involved in the adoption of this process is prohibitive. For 30 years, all attempts to pass such an amendment have failed. As to the emotional argument of trying to tie the few radicals and extremists in with the vast majority of students who want only to have the chance to vote for change within the system, this type of argument smacks of the most blatant type of discrimination—the blacklisting.

In my opinion, we in the Congress can take no more effective step toward bringing the disenfranchised and disenfran- chised younger members of our country the opportunity to vote. I feel strongly that if at 18 we can ask youths to die in a war that is not of their making; if we can demand that they pay taxes; if we can demand that they pay fines that they have played no role; if society treats them as criminals when they commit a crime; if they can marry; if they can assume all of the fiscal responsibilities of an adult, all of the credit and liabilities of an adult, all of the risks, certainly ought to be able to vote.
This amendment must pass. We must allow our youth the opportunity to work within the system, responsibly and effectively, toward achieving the changes that this generation of America and the world—changes that are so obviously needed. They must be given the right to vote.

To those who say that our youth's actions on the streets of our country prove them unworthy of this right, I say that their actions and their courage in South Vietnam and Cambodia prove them more than worthy. In our country today, we have the most promising generation of youth that the world has ever seen. To deny them their civil rights would be against the institutional and governmental institutions of America, legally and effectively, would only widen the generation gap and prove true the contention that we, as legislators, as representatives of the "establishment" lack the courage and vision needed to help make a better America and a better world. Mr. Speaker, today, the House of Representatives as a body, and each and every Member, individually, are voting for the future of our country, to cast a vote for reason, for change.

I urge my colleagues to join with me in support of the amendment to give 18-year-olds the right to vote in the United States.

Mr. HUNT. Mr. Speaker, today we make a momentous decision involving the voting rights for American citizens and the lowering of the voting age to that of 18 years. It is deplorable that these two separate items have been combined by the other body for the sole purpose of exerting its will over the duly constituted House of Representatives. I have long objected to the passage of bills coming from the other body in this manner and it is necessary today to once again voice my objections. The right of an 18-year-old to vote in the United States is a matter of constitutional law. I would most heartily and most readily support a bill to permit the placement of a vote for an 18-year-old on any and all State referenda in accordance with the Constitution. However, when 435 Representatives are called upon to decide for approximately 90 million American citizens the question as to who should vote then it appears to me that we are grossly overstepping the bounds of our duties and the Constitution we have sworn to uphold. For States have lower voting ages, hence the 186 million figure.

In my estimation the right to vote is sacred and I believe that all men in the armed services should have that right to vote immediately upon being induced or voluntarily serving in the armed forces. This would dispel the argument that "if you are old enough to fight you are old enough to vote." To this I heartily subscribe.

On the other hand, I want to reiterate that we should follow the Constitution, support a constitutional amendment, and send it to the 46 remaining States for ratification.

Today, I would like to support the voting rights bill which is one part of the measure we are discussing but I cannot in good conscience do so because the unenforceable and unconstitutional attempt to have the 18-year-old vote legally expressed throughout this land by blackjack methods. It is a constitutional question and should be treated as such.

Mr. THOMPSON of Georgia. Mr. Speaker, I fail to see how a rule under which the voting rights bill came to the floor, I was not allowed an opportunity to speak to the Members of the House. While I realize that the vote will already have been taken by the time remarks appear in the Record and will have no bearing on the Members' vote, I do, nevertheless, wish to include these remarks in the Record with particular reference to the position of the Member of the Minor against Happersett case.

Mr. Speaker, those who would attempt by simple statute to grant the right of 18-year-olds to vote apparently base the constitutionality of such actions on Katzenbach against Morgan, wherein it was held that section 5 of the 14th amendment grants to the Congress the right to enact laws to enforce the provisions contained in the 14th amendment by appropriate legislation.

They further contend that under this decision, Congress can make an affirmative statement that it is found that the denial by the States to 18-year-olds of the right to vote is an equal protection clause and once such a determination is made, then the statute may legally be enacted.

Mr. Speaker, no one quarrels with the fact the Congress, under section 5 of the 14th amendment, does have the right to enact laws to enforce prohibitions contained in the 14th amendment. However, Mr. Speaker, it is very apparent that the mere fact that Congress may deem the denial of 18-year-old voting by the States to be a denial of the equal protection of the law in no way amends the Constitution as it is now written nor does it reverse one of the most applicable cases on voting rights ever to be decided by the Supreme Court.

In October of 1874, the Supreme Court, in a landmark case on women's suffrage—Minor against Happersett—clearly set forth the premise that the Constitution, as it was then constituted, reserved to the States the right to determine which citizens shall have the right to vote. The Court in Minor against Happersett pointed out that the 14th amendment which contains the equal protection clause, as well as the privileges and immunities clause, also provided that no State should exclude any male citizen 21 years of age or more from voting unless it was willing to suffer a penalty by having a proportion of its Members in its representation in the House of Representatives of the U.S. Congress. The Court immediately stated:

Why this, if it was not in the power of the legislature to deny the right of suffrage to some male inhabitant? And if suffrage was necessarily one of the absolute rights of citizens, why confine the limitations to male inhabitants? As we have seen, "persons." They are counted in the enumeration upon which the apportionment is to be made. But if they were necessarily votes they could not be citizenship unless clearly excluded, why inflict the penalties for the exclusion of the males alone? Clearly, no such form of words would have been selected to express the idea here indicated if suffrage was the absolute right of all citizens.

And still again—

After the adoption of the 14th Amendment it was deemed necessary to adopt a 15th as follows: "The right of citizens of the U.S. to vote shall not be denied or abridged by any State on account of race, color or previous condition of servitude." The 14th Amendment had already provided that no State should make or enforce any law that would abridge the privileges or immunities of citizens (and, of course, the 14th Amendment also provided for equal protection of all citizens at this time) of the U.S. If suffrage was one of those privileges and immunities, or equal protection of all citizens (as provided in the 14th Amendment), why amend the Constitution to prevent its being denied on account of race, etc.? Nothing is more evident than that the greater must not deny the lesser and if all were already protected, why go through with the form of amending the Constitution to protect a party?

Thus, Mr. Speaker, we see that in Minor against Happersett, which has not been overturned, the right of citizens to equal protection of the law was included in the 14th amendment as were the privileges and immunities upon which the decision was based at the time of the passage of the 15th amendment. Therefore, why is it very clear, Mr. Speaker, that the States do possess, subject to the constitutional prohibitions, the right to determine suffrage.

If a State desires to grant the franchise to 12-year-olds, it may do so. The Constitution and subsequent amendments only state that the States: may not deny the right to vote to any male over the age of 21 without having its representation reduced in the Congress; 14th amendment—may not deny the franchise to any citizen because of his race or color—15th amendment—or may not deny the franchise to any citizen because of sex—19th amendment. Why was it necessary to pass the 19th amendment when the equal protection clause was already included in the 14th? It is clear, Mr. Speaker, that for the Congress to usurp by statute the reserved right of the States to determine suffrage, weakens the very foundation of our republican form of government which is guaranteed by the Constitution.

This is only one reason why I feel that it is unwise for the Congress to pass a statute to give the franchise to 18-year-olds when such rights are reserved to the States. I support 18-year-old voting just as I support the constitutional prohibitions against discrimination based on race, or color, or sex. These should be legally accomplished by constitutional amendment as clearly provided in the Constitution, and not by this "backdoor" route of an illegal statute.

Mr. BURLINGTON of Missouri. Mr. Speaker, the record will reflect that in December when the Voting Rights Act was initially before this body I voted for the administration substitute and against a simpler extension of the Voting Rights Act. I think my remarks at that time are particularly appropriate here and were as follows:

Mr. Chairman, my vote will be cast against a straight and simple extension of the Voting Rights Act of 1965 and in favor of the ad-
ministration substitute. I take this opportunity to briefly point out a couple of pertinent matters.

First, in observing elections in my district for three decades, I can say without fear of contradiction, a higher percentage of Negroes test a criterion 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. In this phase of the law, not being a resident of certain states in the Union and not to those only of a particular region, I would protect the vote of the uneducated citizen, whether he be black, white, red, or brown. The vehicle to do this is the substitute and not a simple extension.

It is seen that the fundamental reason for my vote at that time was the failure to apply the honesty test prohibition to all States in the Union rather than to a few States from a particular region. This right was denied to the Negro people. In fact, the first speech I ever made as an adult citizen and practicing lawyer was in favor of this proposition. Nothing has happened in more than a decade since that speech was made to change my viewpoint. However, I must in candor admit that the backlash from campus violence and disruption has adversely affected many who otherwise would favor lowering the voting age. Because of this mood which pervades in this country I feel it apropos to further explain my affirmative vote on this resolution, as it pertains to the 18-year-old voter provision.

I have a special affection and appreciation for the youth of America and I try to practice what I preach. For example, two of my three top assistants are under the age of 25; the other one is under 30. This is a rare and unique situation in a congressional office. I cannot help but be proud to say that I am the only Member of Congress among the 435 U.S. Representatives, and the only Senator that can make this statement.

The present generation of young Americans is possibly the most concerned, most involved generation in memory. They are deeply involved in the issues of our time: the issue of war and peace, the fight against environmental pollution, and the fulfillment of the promise of our Nation. Like any involved and active happening in the United States the young people of today have among their number a few extremists, whether they be the flower children, dropouts, or the ultra militant anarchists. It is unfortunate that these few attract the bulk of the headlines and national attention when in fact the vast majority of young people today are working incessantly, if less obtrusively, toward making our Nation an even better place to live. These people have what they will be heard. I say that now is the time to insure that they have open to them the most effective, most desirable, and most legitimate channel for that voice—the right to vote.

There are 12 million of them. Twelve million between the ages of 18 and 20. They are students, husbands, wives, and workers. Except for their age they are little different from any other group of adults. They are not a unique group, anything but that sets them apart; that deprives them of the exercise of their citizenship. Only 4 percent of their number are able to vote for the leaders that govern them.

Sixty percent of them work full time. Six percent are serving in the armed services and 47 percent are enrolled in college. As is apparent from the figures, many are both college students and are working. And those working for me. Three and a half million 18- and 19-year-olds are in the labor force working at adult jobs with adult responsibilities, yet they cannot vote.

The question is, why should we single them out like felons and idiots and deprive them of the right to vote? Is it that they lack the knowledge to cast an intelligent vote? In 1966, 70 percent of the 18- to 20-year-olds were high school graduates. Of these, 56 percent are American-born. Of the same group in 1960 only 62 percent could make the same claim. In 1950 the figure was 58 percent and in 1946 it was 48 percent. More than 20 million of the disenfranchised are getting advanced education at colleges, universities, and vocational schools.

In the early days of the Republic when the arbitrary figure of 21 years was set as the age requirement for the right to vote it was felt that average 18-year-olds had 5 or fewer years of education. He had no radio, no television, no magazines, and probably no newspapers to read. Perhaps then there was a justification for denying the vote. Today, the average 18-year-old has a generation which grew up with Walter Cronkite, NBC White Paper, Time Magazine, and television debates. Special courses in high school prepare the young people to be responsible citizens and voters. Yet between the time they graduate from high school and when they get their first opportunity to vote may be 3 or more years. By then their enthusiasm may have waned.

In 1960 a study was undertaken at the University of Kentucky to study student voting habits. The test showed that in Kentucky where 18-year-olds can vote, 80 percent did so. Contrast this with the statewide figures which indicated that only 59 percent of the general public voted in the same election. Kentucky is not exceptional in the apathy of its voters. Nationwide only about two-thirds of the eligible voters voted in presidential elections, and 18-year-olds voted at less than 50 percent in 1966 congressional elections.

Surely they are enthusiastic and idealistic. They must be. Eighty percent of them vote when they are given the opportunity. I was always taught that these are virtues. But, because of their enthusiasm, their idealism, and their reluctance to compromise with injustice their detractors call them immature. The same arguments do not hold true for giving women the right to vote and it is equally groundless. I am sure that it is equally groundless as applied to young people.

Let us look at the States that have lowered the voting age. Let us examine how they have fared. If the 18-year-olds vote irresponsibly it should show up in the voting patterns of those States. The votes for radical political parties should show a marked upward trend and the vote for the Conservative candidates against the older candidates. On the contrary, the statistics show just the opposite. Alaska, which allows 18-year-olds to vote went for Kennedy, Johnson, and Nixon with no measurable vote for splinter parties, as did Hawaii which allows 20-year-olds to vote. Kentucky has allowed 18-year-olds to vote since 1956. In presidential elections they have voted Democratic largely because the Kentucky Socialist Labor Party received only half as many votes in 1956, when 18-year-olds could vote, as it did in 1952 when they were excluded.

It would also be interesting to note that lowering the voting age was the sole reason for the decline in the vote for the Socialist Party, but it should assuage the fears of those who are apprehensive of a trend toward radicalism if young people are allowed to vote. Georgia has allowed 18-year-olds to vote since 1943 and we all know that State's record for stability. Some of the most able and most eloquent spokesmen for the conservative viewpoint come from States which allow young people to vote—Senator Richard Russell, of Georgia, dean of the Senate, John Sherman Cooper, of Kentucky; and Hiriam Fong, of Hawaii.

Eighteen-year-olds are uniformly held to adult standards of criminal behavior. An 18-year-old and a 30-year-old committing the same crime are subject to the same penalty. I can vouch for that as a three-year prosecuting attorney. In the same time period an 18-year-old is old enough to make the most important decision of their lives—the decision to marry. Yet they cannot vote.

The millions of young people out of high school and working to support themselves and their families are taxed to the same extent as other citizens but they have no voice in the choice of their representatives. This lack of representation may be reflected in the most normally made up people. Since the majority of single wage earners are young and unable to vote, their interests have not received as much attention as they deserve. However, I might add that passing, that we did close the 18-year-olds 1969.

The Tax Reform Act of 1969.

There are some who would deny the voting franchise to the young because of the unrest which presently pervades our college campuses. These critics represent the mainstream of American thought. I say unwilling to accept that premise. If we are to fight the rabble rousers we must not fringe radical extreme. But even as we admit that the mainstream of our youth
June 17, 1970

CONGRESSIONAL RECORD — HOUSE 20189

turning to turmoil, it would seem wiser to first give them the opportunity to express themselves at the ballot box rather than at the tinderbox.

Finally we come to the argument most often made by those urging young people to vote. It is the ‘old enough to fight—old enough to vote’ argument. It is true that the qualities that make a good soldier do not necessarily make a good citizen, but I think it is more important to tell a man to be prepared to risk his life for his Government on a foreign continent, he be permitted a voice in the selection of its leaders. Twenty-five percent of the fighting men were 21 and over 21. Forty-eight percent of those who die are under 21. That means approximately 20,000 have died. Well in excess of 100,000 have been permanently disabled. Many have been decorated for their valor, but few have the right to vote.

One of those in favor of lowering the voting age is Henry Boucher, mayor of Fairbanks, Alaska. He said:

I think one of the greatest mistakes that we make is to refuse to vote with a large portion of our young people in areas that create an unequal and opposite reaction. I feel that their involvement in our city and our State is vital to their future and that of a prospering State. I am sure that greater involvement by the young people would certainly be of great benefit to those States that are not privileged to have it.

Presidents Eisenhower, Kennedy, Johnson, and Nixon have supported a lowering of the voting age, but I think Sam Rayburn, the late beloved Speaker of the House of Representatives for longer than anyone else in history, capitalized it best when he said:

It makes me tired to hear all this talk about the young generation going to heck in a sack. They are a lot smarter than I was at their age.

Mr. SYMONTS. Mr. Speaker, it is argued that a statutory extension of voting rights to Americans between 18 and 21 sacrifices constitutionality on the altar of political expediency. How can that be? Most of those who support the extension of the voting rights act argue that those who are old enough to serve in the Armed Forces—those who do not have the opportunity to vote—those who do not have the opportunity to vote.

Mr. MARSH. Mr. Speaker, it is my feeling that the Congress is proceeding in the wrong way in its effort to permit 18-year-olds to vote.

My own view has been that the establishment of the criteria of voting, including the age requirement, is a matter that should be handled in one of two ways: that is, either by action of the individual States, or by constitutional amendment. Traditional, it has been within the purview of the States to establish the necessary qualifications for voting; however, in the matter of the minimum age it has been my view that an amendment to the Constitution would be in order, and I would support such an amendment. Proceeding in this manner in effect would refer the matter to the judgment of the several States in order to obtain the result by simple statute rather than constitutional amendment. It remains to be seen whether the Court will sustain such a course of action or not.

Although I voted for the original Voting Rights Act amendment in the House in 1965, to make the Voting Rights Act applicable to the 50 States, I note that the legislation before us includes the voting age provision as a rider to the version of the voting rights bill developed in the other body. This version failed to follow the House action, and, on the contrary, with certain variations, returned to the old voting rights bill which discriminated against some of our States, particularly in the South, and including Virginia.

The fact that the other body did not follow the House proposal on the voting rights bill is regrettable, as it continues a piece of legislation which is not fairly applied one of a constitutional nature.

Mr. VANK. Mr. Speaker, I will vote today to allow the House of Representatives to accept the entire Voting Rights Act as amended by the other body. The approval of the resolution before us will save the bill from going to a conference committee or returning to the Senate. The approval of the resolution will mean final passage of this vital bill.

For several reasons, today’s vote will be one of the most crucial and decisive votes of this Congress. First of all, a “yes” vote today will mean that the Voting Rights Act of 1965 will be extended for 5 more years. If the House should refuse to extend the bill, it could be returned to the Senate where it could face a nearly endless filibuster. Since the Voting Rights Act expires on June 30, 1970, this would remove the protection of the Voting Rights Act of 1965 to 29 percent of black Americans of voting age in these States were registered to vote; 52 percent of them are registered today. However, an extension of the act is needed. The U.S. Civil Rights Commission has testified before the House Judiciary Committee that resistance continues to equal suffrage. Passage of the act is needed to maintain the gains of the last 5 years and eliminate the disparities and discriminations which remain.

Second, acceptance of the resolution before us will provide approval of a Senate amendment extending the right to vote to all persons who were 18 years of age and older in elections after January 1, 1971.

The amendment to extend the franchise to our young citizens is vital for many reasons.

Today, through great advances in our educational system, we have generally acquired an education comparable to that of a 22-year-old citizen 20 years ago. Education has become much more serious, much more intense, and our significantly greater quality and quantity.

While some may argue that 18-year-old citizens lack judgment sufficient to undertake the responsibilities of government, it seems to me that judgment is one of the crucial benefits of education. Nor is it necessary for judgment to result entirely from harsh and cruel experience. One of the chief aims of education is to provide a substitute to harsh and costly experience.

It is also argued that younger citizens are not likely to be wage-earners or property owners and, therefore, should not be given the vote. In reply, I must point out that the fundamental principles of our Government provide for equality in voting rights, there can be no discrimination against those who lack either income or property.

In my experience in the 22d District of Ohio, I have visited most of the secondary schools and the middle schools. The intelligent awareness of the young students was one of my most gratifying experiences. They are well informed, inquisitive, and eager to participate. This proposal provides that opportunity.

Presently, except in four States which have lower voting age, a youth leaves high school and the place where he has been trained in the duties and rights of citizenship and enters the armed service, the work force, or a school or university. In every sense he moves into the mainstream of the Nation, into the economy, into service to his country, into the intellectual centers of the Nation—yet he cannot vote.

For 3 years the young citizen does not think of voting; he does not develop the habit of voting; he has been told of the duties of citizenship all his life, yet now he is denied the practice of citizenship. This youth will be able to move directly from the high school setting into the practice and habit of voting; there will be no disruption. Instead the youth will begin the practice of voting and—hopefully—maintain it throughout life.

Another reason for lowering the voting age is that it will give America’s youth, which is such a major part of our population, the voice in the direction of the country. If we believe in representative government, we must give greater representation to this major section of our population. For too often the American population has been dropping. The median age in our country is now approximately 27.7 years and dropping lower. Young people of America are increasing at a great majority. They deserve representation.

It is my hope that the extension of voting rights to our young citizens will serve to retain them in our society. We need their talent, their idealism, their
hopes, and their aspirations. The future of our Nation depends on a unity of our people. We do no longer countenance the divisions which result from race, sex, or age. This is a Nation of free people. We have taken giant strides to bring about equality among the races. Women have taken their place in the life of the country as a substantial part of their goals of equal rights. And now we deal with the rights of our younger citizens. We invite them to full citizenship; we invite them to vote and to seek office. We urge them to do their chores, to do it—at the ballot box instead of the street.

Mr. RARICK. Mr. Speaker, the measure before us may be rhetorically brushed aside as merely amendments to the Voting Rights Act. Yet, I remind our colleagues that this is not the bill which passed this House earlier this year. This is a brandnew bill, rewritten in the other body, which, in addition to including the constitutional question of granting the right to vote to the 18-year-olds, seeks extension for an additional 5 years of the Voting Rights Act, not nationwide, but only to a handful of States situated in the United States.

We in the South realize it is easy for people outside our area to continue to use us as scapegoats—to inflict political punishment against our people in order to bargain for bloc votes outside the South.

We, of the often-persecuted and colonized South have—for 5 years—pointed out the inequities of the constitutionally and legally via Federal intervention into the rights of our people to have some voice in our voting laws—denying us the self-determination enjoyed by other States but which was denied us by the Voting Rights Act—reducing our States to the condition of conquered provinces and our citizens to the status of less than 100 percent Americans.

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

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

Additionally, the other body, to prevent extending and applying to the Nation as a whole the Voting Rights Act, has brought before the House a most remarkable measure—among the most odious of two of the most common quickly.

The determination of the qualifications of voters is a matter expressly reserved to the States in their sovereign capacity. That may, as some have, elect to grant the franchise to different age groups within the State, on the basis of the local experience and the local political philosophy. This is as it was intended to be, and this is the very reason why the Constitution specifically lists the several sovereign States. Now, ignoring the Constitution, for the simple and obvious reason that the procedures prescribed by that basic charter cannot be operated by a minority, we have the new order of things before us as a statute, and a Federal statute at that.

The power in the State to regulate voter qualifications is correct and proper for the same reason that it is correct and proper that the several sovereign States should separately denote what acts are deemed by their people to be crimes within their borders. It is also a part of the same political philosophy of a federal system which holds that such other determinations as the age at which individuals are held to be criminally responsible for their own acts, or liable in tort for their own wrongs, or free to marry or to take other important actions without the consent of their parents or guardians, is properly a determination of the several States, and can be beneficially variable among them, in order to relate it to the conditions which exist therein.

So it is with such things as the age at which a child may be licensed to drive, or to hunt, or permitted to drink, or to handle firearms, or to leave school, or to consent to many acts which may be detrimental to him. In all of these cases we have found it wise to leave to the people of the States the control over their own destinies.

So we have done with the franchise, and experience, wisdom, and the lessons of history prove we should continue to do. Where we have elected to take national action to extend the franchise we did not hesitate to adopt the course provided by the Constitution—a constitutional amendment. We did this to provide that all citizens might vote, and that women might vote. We have done it, albeit by paying the price of exercising a tax to the State as a prerequisite to the exercise of the franchise. If we now wish to make lowering of the voting age national policy, we should again follow the course which the Amendment should amend—it is not abrogated. Otherwise our action is only a dangerous nullity.

A cursory examination of some of the emotional arguments made for this violation of the Constitution indicates that once how specious and dishonest they are.

In the 18-year-olds are old enough to fight—They’re old enough to vote.

It is said that those young men of 18 who are old enough to be drafted—to fight for, to risk their lives for, and to die for their country should be allowed to vote. This is an appealing non sequitur.

It presupposes that the qualifications for both military service and voting are the same, and that all who are eligible for that service also are eligible to vote. It logically disenfranchises those Americans who are not eligible for military service—including all of the women of the country. It would result, lower the minimum age for voting, in an electorate consisting exclusively of honorably discharged veterans.

I doubt that any State legislature would refuse to face up to any proposal that it amend its laws, or Constitution, to extend the right to vote to any man serving their country in the Armed Forces or honorably discharged—regardless of their age.

Likewise, most sensible observers have noted that the screaming mob espousing this slogan are not veterans nor fighting men but rather draft dodgers, draft card burners, and revolutionary vandals who have no intention whatsoever of fighting—at least not for the United States.

It is said that the median age of Americans is only 27 years—the mark of an ever-younger population, and that the decreasing median age makes it necessary, as a purely democratic process, to lower the minimum age for voting. This argument is neither true nor relevant—another word which is often heard these days.

First, the median age has nothing to do with the qualifications of the electorate. It is a statistic, and as any statistic is only valuable in its proper setting.

That the median age of our population is 27 years only means that there are as many Americans under that age as over it. It is also a median height, a median weight, a median blood pressure or red blood count, a median income, and a median almost anything else subject to measurement. Of the half of the Americans who have not yet attained the age of 27 years, a significant percentage have not attained the age of 18 years—or 15 years—or 5 years—some are still infants.

It is true that we have not yet counseled that these children must vote—in the interests of responsible government.

On the fallacy of the decreasing median age, the most recent statistical abstraction of median age propaganda is this: The median age of the United States sets the mark of the rest, once and for all, I hope. Instead of being a decreasing figure, it is increasing one. True, since 1900 it dropped from an all-time high of 27.7 years to its present level of 27.7 years. But from the time of its first census significance in 1820, it has risen from 18.7 years. Thus, if the shifting median
June 17, 1970

CONGRESSIONAL RECORD—HOUSE
20191

relates to the franchise, we should be considering raising the minimum voting age by the 11 years the median has risen, and establishing it at the age of 22 rather than the present age.

A statistical abstract follows:

**Statistical Abstract of the United States—1968**

<table>
<thead>
<tr>
<th>Year</th>
<th>Median age of United States, all classes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1960</td>
<td>27.6</td>
</tr>
</tbody>
</table>

Total resident population excluding Armed Forces abroad

<table>
<thead>
<tr>
<th>Year</th>
<th>Median age, United States</th>
</tr>
</thead>
<tbody>
<tr>
<td>1960</td>
<td>27.6</td>
</tr>
</tbody>
</table>

I, John Rarick, do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the State of [insert state], and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

I urge that the previous question be voted down.

Mr. ROBISON. Mr. Speaker, the House is considering what may prove to be one of the most crucial and timely pieces of legislation that has come before it in recent years. The amendment contains not only the Voting Rights Act extension, but also a provision extending the franchise in all elections—local, State, and National—to those citizens who are 18 years or older. While I would not suggest that one portion was any more or less important than the other, I do recognize that a great deal of controversy and uncertainty has been raised about the 18-year-vote legislation, and therefore I should direct a few remarks to that portion of the package.

The right to vote for one's representative government is the underlying rationale of our entire system of government. During our Nation's history, various groups of people have found themselves without the right to vote, but gradually and steadily we have extended the franchise to most portions of our population. Today, however, there is a large segment of our population which is denied access to the voting booth. This group is not delineated by race, by sex, by education, or by wealth, but rather by age. All but four States have established age 21 as the age at which one can first cast a vote, even though many of these same States grant other important privileges and responsibilities to those under that age.

Since voting qualifications were seemingly left to the several States to determine individually, there has been a great hesitancy on the part of Congress to make legislative decisions affecting this area. But it should be noted, parenthetically, that there is a great responsibility as to the actual delegation of this responsibility, since the Constitution speaks only generally about voting qualifications; besides which it would seem the Constitution was written with the ability of Congress to act directly on the question of voting qualifications because of the existence of the 14th amendment.

For, with the adoption of that amendment, Congressional power and responsibility to make a definite constitutional recognition. As section 5 of that amendment provides:

"The Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

And it has to be on the strength and the authority of the 14th amendment that we rest the main thrust of our efforts to remedy, by legislation, what some of us view as a denial of equal protection of the laws to this Nation's young people.

I would note that the two prior extensions of the franchise—giving the vote to women and striking down poll taxes—were accomplished by virtue of a constitutional amendment, and therefore such a method stands as compelling precedent. However, I would suggest that, on the one done by legislation what the States did by amendment legislation would still have been upheld by the Supreme Court as a legitimate exercise of Congress' 14th amendment power.

In order to relate the 18-year-old vote to the congressional legislative power granted by the 14th amendment, an analysis must be made of the role that voting plays in our form of government. To play its role, it has to have a certain form of government, that government must be responsive to the wishes and views of all qualified voters. This is a matter which transcends State borders, it is a matter which defies local variations. Rather, as our Nation grows "smaller" due to advances in travel, education, and communication, the franchise becomes a national concern and has a national effect. Thus, it comes to us in our Nation which are excluded from the elective process in significant numbers—black citizens and those young people under 21. This legislative package is aimed at bringing significant numbers in both groups into the right of suffrage.

One cannot speak on this subject without mentioning the divisiveness which currently threatens to tear our country apart. We, as a nation, believing in the viability of our Government and its ability to respond to all citizens, constantly implore those with divergent views to respect the system and yet, in the case of those under 21, there is not truly such an opportunity. Our plea in this regard is viewed as largely empty rhetoric, or as establishment-oriented, or, worst of all, as offering a false hope.

There are those who submit that Congress has certain limited powers—powers which cannot be expanded no matter how compelling the case. They argue that since the Constitution seems to leave the right to vote to the States, the only way of extending the franchise is through a constitutional amendment. I would submit that this analysis fails short of the mark because it erroneously interprets the action we are considering.

A good deal of confusion has stemmed from those of us who endorse the legislative power of Congress in this area. We have been talking about desire, preference, timeliness—that sort of thing—but we have not been addressing ourselves to the underlying and necessary question: Is there something about restraining suffrage to those 21 or older which is unconstitutional? I believe that, when viewed in such a light, the answer is clearly "yes." The equal protection clause of the 14th amendment prohibits discrimination against minority groups which is not founded in reason; and section 5 of the 14th amendment gives to Congress not only the power but also the duty of correcting those inequities.
power to declare that denying the vote to 18-year-olds is an invidious discrimination and to take corrective legislative action:

First. Through a broad and liberal reading of Katzenbach against Morgan.

Second. By determining that the State action in denying the vote to 18-year-olds does not advance or protect any valid State interest.

Third. By determining that even were those valid State interests, that it is outweighed by other competing interests which are constitutionally more important.

**Katzenbach against Morgan**

Although I certainly do not profess to be a constitutional scholar, it is my understanding that Morgan can be read in such a way as to vest in Congress the ability to make determinations that certain State activities are constitutionally impermissible as violative of the 14th Amendment. Not only can Congress make determinations as to those activities which fall within the purview of existing Supreme Court decisions, but Morgan seems to give Congress the power to determine determinations as to what is constitutionally permissible—thereby carving out new areas of equal protection.

Some contend that such ultimate decisionmaking is, and must be left exclusively within, the province of the Court, for to allow Congress access to this area puts it in competition with the Supreme Court and thereby distorts the system of checks and balances. However, it would be folly to assume that as long as Congress makes factual findings while leaving the legal findings to the Court. Thus, it would be entirely consistent with Morgan for Congress to find that, as a factual matter, to deny the vote to an 18-year-old is impermissible on a constitutional and an invidious discrimination.

Congress could make this decision by making its own factual assessment that an 18-year-old of today is equal in judgment, maturity, character, education, and knowledge to a 21-year-old of 50 or 100 years ago. Having made such a factual determination, Congress could then conclude that, by failing to allow 18-year-olds access to the voting process, the States were violating the equal protection clause of the 14th Amendment.

**No State Interest Protected**

As I have said previously, I believe that Morgan is just the “frosting on the cake,” and is not necessary to a finding that Congress has acted within its powers by passing legislation granting the vote to 18-year-olds. Thus, apart from Congress carving out a new area of equal protection, the States were violated by Congress by virtue of section 5 of the 14th Amendment.

Those Court decisions teach us that all discrimination is not, in and of itself, violative of the 14th Amendment. If there is a rational relationship between the discrimination and a legitimate State interest, then that discrimination might not be unconstitutional. Hence, if limiting suffrage to those 21 or older is based on a valid State interest; if that limitation actually serves to further that State interest; if that State interest is not outweighed by some more important consideration, then such a discrimination might well be lawful.

What are the possible State interests to be protected justifying the right of suffrage to those 21 or older?

First, is the interest of having an electorate which is sufficiently aware of the issues to cast an intelligent vote. Although this would appear to be a valid State interest, the vote to 18-year-olds does not seem to further that State interest. All of the evidence would suggest that present-day 18-year-olds are as intelligent and knowledgeable in every respect as much as so many of the 21-year-olds of 50 or 100 years ago.

Second, a State has an interest in having its electorate cast a mature vote. This likewise is a valid interest, but once again the apparent answer is not served by denying 18-year-olds a vote for we are all constantly made aware of the increasing maturity of the vast majority of our young people, of their ability to digest sophisticated ideas, and of their ability to perform tasks requiring great emotional restraint.

Third, it is argued that a State has a valid interest in insulating itself from radical political thought—but this is not a legitimate State interest. It is imperative to distinguish between poor judgment and radical political opinion. The danger is evident: If we allow States to preclude 18-year-olds from voting because of their possible political opinions, then the next step is to deny the vote to others who harbor similar opinions. As the Supreme Court noted in Carrington against Rush:

> Fencing out from the franchise a sector of the population, if the voting age is 21, then 20 may vote is constitutionally impermissible.

Additionally, in looking at State interest, it is helpful to note that those States which have already granted the vote to those under 21 have experienced no harmful effects. It would seem, then, that no valid State interest is served by denying the vote to 18-year-olds and therefore the conclusion must follow that denying suffrage to that segment of our population is constitutionally impermissible.

**Any State Interest is Overweighed**

Were we to assume that there is some valid State interest which is actually served by limiting the vote to 21-year-olds, the Supreme Court decisions indicate that such an interest may not be sufficient to support that discrimination which it engenders. If the State’s interest is minor compared to the effect or the likely effect of the discrimination, valid State interest is invalid as a violation of equal protection. In the case of limiting the vote to 21-year-olds, I would argue that any State interest is more than outweighed by the necessity and the desirability of extending the franchise.

The following factors which, on balance, outweigh State interests in this area bear mentioning, and I do so, Mr. Speaker, to adequately prepare the record and the legislative history of this measure so that the Congress can later on see from this legislation can observe that the Congress has affirmatively found certain facts which, in its judgment, outweigh any conceivable State interest to the contrary.

**Age 18 is normally the age at which most young people finish high school, and having thus completed the basic portion of their education they have absorbed a great deal of information about our Nation’s history, our Government, our national objectives, and our shortcomings.** This information and knowledge about our basic political structure allows them to take part in our society in many cases more than their parents since the knowledge is so fresh in their minds. In a number of States age 18 signifies the age at which a minor comes of age and is liable for his debts and expenses. By so allowing a minor to obligate himself, those States have found him to be both mature and intelligent. Other States use age 18 as the point in time when an individual can enter into marriage without parental consent. Some States use 18 as that age at which a person is liable for criminal prosecution as an adult rather than as a juvenile.

The Congress, by means of the Selective Service Act, has determined that the ability to vote is at an age 18 must register for the draft and be available for induction. Indeed, our recent actions and those of the President place more of the burden of carrying on our wars on the younger men of our country. It is certainly logical to suggest that those who are subject to the draft should have some voice in their Government.

A related argument is that, having once been drafted, a man is subjected to the will and whims of his Government. Long ago this Nation felt that governmental policy which affected those who had no voice in determining that policy was a serious enough threat to support a revolt. Certainly military obligation without representation is on a par with taxation without representation. This argument takes on additional weight when one looks to casualties in Vietnam and finds that a substantial portion of those who have given their lives for their country were under 21 and not able to voice their support or opposition to that war.

These arguments are often dismissed as emotional. I would suggest that we not confuse emotion with concern. There is a rational basis for reducing the voting age, and that basis far outweighs any possible State interest to the contrary. It is in this analysis that the Congress has made a factual finding that the State interests to limit the voting roles do not rise to the level of the interests to be served by limiting the voting age, and I do so, Mr. Speaker, speak loudly and convincingly that lowering the voting age is mandated.
I would add one additional observation
supporting the congressional finding of a 14th amendment violation. Since two States bar the voting age at 18, one at 19, one at 20, and the rest at 21, it would appear that these States practices give rise to a denial of equal protection. Young people under 21 are able to vote for Senators and Representatives in four States, while their counterparts in the other 46 States are not privileged. Thus, the inconsistencies between the States and the Constitution reflect the situation that some people under 21 are represented while others are not. Such a situation, on a national scale, also appears to me to be constitutionally impermissible.

There is one additional point that ought to be clarified, Mr. Speaker, for the legislative history of the 18 vote legislation in the Senate is somewhat unclear. There is some question as to when Congress intends this legislation to go into effect. Section 305 provides:

The provisions of Title III shall take effect with respect to any primary or election held on or after January 1, 1971.

This section was specifically added after the Senate became aware that a number of States might be placed in doubt if those under 21 could vote in those elections while the Supreme Court might have this matter under consideration. To correct that uncertainty, section 305 was added. However, it is important to note that section 305 only refers to a "primary or election" and does not make reference to the other incidents of the extension of the franchise, such as registration or entering an election as a candidate prior to January 1, 1971, if the election takes place after that date. This law becomes effective upon signing by the President, but certain incidents of the law are delayed until 1971.

Specifically, at this point, Mr. Speaker, I believe I had understood that, currently, preparations are being made to test this legislation when and if Congress passes it. Since we wish those tests to start as soon as possible, it is our desire to have the present judicial vacuum for the Supreme Court as of the date of signing by the President. With that in mind, the Congress intends the legislation to go into effect immediately, but to limit its effect to those actual elections which occur after January 1, 1971, so that the Court test will cause as little uncertainty in the elective process as possible.

To summarize, I would like to dwell for a moment on what Congress is attempting to do by passing this legislation, and equally important, what we are not trying to do. Most proponents of the entire Voting Rights Act, as amended by the Senate, have argued either that 19 is preferable to 21, or that which the voting franchise should be granted, or they have argued that lowering the voting age would take too long by the constitutional amendment. The opponents of the legislation have argued that the Constitution vests in the States the ability to determine voting qualifications and, therefore, the State legislatures should, through a constitutional amendment, voice their preferences.

While there is some validity in all of these arguments, I believe that these analyses put the horse before the cart. As I read the Constitution and as I understand the upcoming vote, Congress is not exercising its limited power for the sake of this amendment, but rather we are exercising our judgment under section 5 of the 14th amendment and deciding if limiting the vote to 21 denies equal protection.

Although it is the duty of the Congress to correct the infringement on equal protection by appropriate legislation, and although we are not authorized to delegate that responsibility to the States, it must be recognized that the Court could, by constitutional amendment, cure these defects. There are, however, two cogent reasons for turning away from that alternative.

First, the experience in some States over the past year in turning down proposals to lower the voting age to 18 serves warning to Congress that the States may be unwilling to cure this denial of equal protection.

Second, even if the States would pass such a curative amendment, the sooner this could be done—it in historical perspective—would be 9 months and the average passage time for amendments is over 22 months. Our responsibilities under the 14th amendment do not allow us to compel this group to so suffer the denial of equal protection.

In passing this legislation then, our vote is not one of preference, for preference of type, left to the States. Our vote does not reflect our views on the desirability of the constitutional amendment vis-a-vis the statutory approach—no more so than our view of equal protection dictates—because they are not alternatives to one another. They are separate questions and not interchangeable. Before one can advocate a constitutional amendment, he must resolve the question of equal protection.

It is then this question of equal protection to which the House is addressing itself. On the strength of the factual evidence available, we are led to the inescapable conclusion that the restriction of the vote to some age other than 18 serves no valid State interest and is therefore violative of equal protection.

In that regard, Mr. Speaker, I urge my colleagues to pass the Voting Rights Act as amended by the Senate.

Mr. BINGHAM, Mr. Speaker, the legislation currently before the House, the Voting Rights Act as amended by the Senate, which includes a provision to extend the vote to 18-year-olds, is a momentous measure. After careful study of the many difficult issues raised by this legislation, I have concluded that it merits support, and I shall vote for it.

The 18-year-old vote, of course, has stimulated much attention and controversy, as well it should. In my judgment, young people between 18 and 21 are, on the whole, extremely important to the possibilities of enfranchisement and using their voting power carefully and wisely. Despite the behavior of a small minority of young people who seem willing to resort to violence to achieve their political ends, the vast majority of today's young people are anxious to participate fully in the political system and to seek improvements through legitimate political means.

I have been concerned about the question of the most appropriate means of extending the vote to 18-year-olds from both a legal and practical point of view. To amend the vote by statute, as this legislation does, need not preclude the possibility of throwing future elections into chaos. I am now convinced, however, that an act of Congress will help resolve uncertainties about the validity of such elections rather than create or intensify them. Harvard law professor and constitutional expert Paul A. Freund has summarized this conclusion very well in a letter to the majority leader, as follows:

Without a statute, there is almost sure to be litigation on the model of the poll tax case, attacking the 21-year requirement as an unreasonable classification of conditions of life and education. Such a challenge would indeed create an embarrassment for the Supreme Court. It is probable that, without a statute, the Supreme Court would feel obligated to reject the complaint, and would thereby exacerbate the federalism problems. An Act of Congress would provide the Court with a strong underpinning for a judgment of unreasonableness, and would furnish an appropriate replacement. . . . There remains the tactical question of expediting the measure, so that elections will not be clouded by constitutional questions. This is a problem for the Court, in the original jurisdiction of the Supreme Court, brought by a state against the Attorney General, who is given the power to bring a suit in a lower federal court by a voter under 21 who is denied registration, or a voter over 21 if those under 21 are granted registration. These suits would warrant calling a three-judge court, with direct appeal to the Supreme Court.

I trust that, should this legislation be approved by the Congress and enacted into law, as I hope it will, these tests of the law will be made promptly and decisively so that future elections are in no way interfered with.

Finally, Mr. Speaker, the question of the 18-year-old vote must not lead us to ignore the other important provisions of this legislation. In particular, this legislation contains a nationwide ban on the use of literacy tests. I have consistently opposed literacy tests on the grounds that, even when formulated and administered with care and without malice, they impose unjustifiable restrictions on the right of every citizen to vote and to participate in the political process. When this nationwide ban came before the House earlier this year, it was part of the administration's version of the Voting Rights Act. A vote to strike it out, which had the general effect of weakening the voting protections established by the 1965 act. So I was forced to vote against the bill as a whole. The Senate version of the voting rights act included this important improvement over the House version in its general voting rights provisions, and I am therefore pleased to be able now to
vote for it, with its strong literacy test ban which I have long favored.

Mr. HECHLER of West Virginia. Mr. Speaker, I am proud to be able at last today to cast my vote for a long-overdue reform, which I hope will end the voting franchise to young men and women 18 years of age and over. Ever since I began teaching political science in 1939, I have advocated this reform which is finally coming to pass on this historic day. The strong and silent stem of the educational system has progressed so far since the very early years when the voting age was set at 21, that now young men and women at 18 are better prepared than when the age was 21.

There are, of course, many who would deny the extension of the vote to those who are 18 on the grounds that there is far too much turmoil, rioting, destruction and immaturity among young people of that age. This is the kind of generalization which is very false because there are vast differences in the level of responsibility of both young people and those who speak for them. An overwhelming majority of young people are law abiding, alert, clear-thinking and fully responsible to exercise all the aspects of citizenship. To deny them these rights is merely to frustrate them, turn them toward using the streets rather than the ballot boxes for the expression of their opinions, and perhaps polarizing them toward the right or left extremist groups.

In the past 12 years, I have had considerable experience with thousands of high-school-age students whom I have brought to the Nation’s Capital under my “week in Washington” program. These students, seniors in high schools throughout West Virginia, have each spent a week at a time working in my office, serving the Congress and its committees in session, interviewing officials, analyzing legislation, and performing other duties to acquaint them with government and the duties to be performed by them, by the way they could not vote at 18. Also, I am impressed by the fact that as the progress of medical science enables all people to live longer, the average age of the electorate is growing. To balance the danger of developing a kind of gerontocracy, we ought to average out the age of the electorate by enabling those between 18 and 21 to vote.

I would like to pay tribute to an outstanding Member of the U.S. Senate who has been one of the ageless leaders in the fight to enact the 18-year-old vote, the Senator from Indiana, the Honorable Birch Bayh. Today, I was proud to note Senator Bayh’s presence in the House of Representatives when this historic amendment was passed. I have voted for this measure in the House. Certainly the Nation is proud of the indefatigable efforts of Senator Bayh, without which the 18-year-old vote never would have succeeded.

We now hope and trust that the President of the United States will sign this measure into law as soon as possible. The rule is not coming. The results will, I am confident, provide healthy benefits for the Nation, for the young people, and for the entire electorate as well as the general welfare of our Nation.

Mr. RANDALL. Mr. Speaker, the previous question on House Resolution 914 should be voted down and H.R. 4249, the voting rights bill should be sent to conference.

There are multiple reasons why this course should be taken. The House Rules Committee summarily rejected the requests of countless witnesses to grant an open rule. Today we are forced to consider two matters joined together which should be considered separately. This unnecessary, uncalled for and indefensible procedure, as one editorial writer has put it, is endangering the one, meaning the civil rights voting portion and blurring the other, meaning the 18-year-old vote.

I supported the 1965 Voting Rights Act and have supported its extension. Moreover, I have clearly pronounced my position that the extension be based upon the 18 years of age of our district as being in favor of submitting the issue of 18-year-old voting to a State referendum. I have offered to assist in the circulation of petitions for such a referendum. If I were a member of our State legislature I would vote to ratify a constitutional amendment which had been approved by the voters of our State. I firmly believe every registered voter should have the privilege to express his preference on such an important measure as the 18-year-old vote.

My complaint is that our procedure today is unconstitutional. Even if it should later be declared constitutional it is in violation of an unwritten precept upon the domain of our States. Because I am so deeply concerned about the constitutionality of this action I will not be able to support House Resolution 914.

My opposition to this resolution is not based upon what I am or am not doing; it is not doing what we are doing is unconstitutional. I am just as strongly opposed because of the procedure we are forced to follow today. House Resolution 914 is not only a gag rule. It is a double gag rule. The rule forecloses all opportunity to constructively amend the Senate version and then it does even worse when it limits the time of debate to 1 hour. This figure about 8 seconds per 18-year-old is assuming it is possible for each Member to be recognized. Such a way to conduct the country’s legislative business. Remember it was under rules like this the House was forced to swallow the Senate-passed open house lost bill and the Senate-written surtax bill.

It is rules like House Resolution 914 which disbars House Members from effectively participating in the legislative process. Rules of this kind make the 17 Constitution which is the foundation of our legislation. The rule of House Resolution 914 makes voting rights a hostage for the proposition of 18-year-old voting and makes the 18-year-old right to vote a hostage to the civil rights extension.

What we are doing today imposes my frustration on what happened during World War II when foods were rationed and merchants adopted the shoddy practice of what is called tie-in sales. Merchants used this procedure to dispose of some of their undesirable goods by requiring purchasers to take such items as canned carrots or okra in order to get a can of green beans. The Rules Committee is today forcing House Members who may wish to support the proposition contained in the Senate-passed bill to take both provisions together when they may be much opposed to one or the other. This is a true tie-in sale.

It should be recalled the vote in the Rules Committee was nine to six. Let us remember then this rule superimposes the bills of the nine Rules Committee members who voted it out over both the rights and responsibilities of all other House Members and I might add because of the constitutional situation it seeks to impose the will of these same nine men over the wills of all the members of the legislatures of our 50 sovereign States.

At the end of the session the Repub-
Mr. Speaker, I would not hesitate to argue that those who can fight for their country have the right to vote in its elections. But there is another, and better tested point to be made. Maturity is difficult to measure. If it can be measured, then let information, intelligence, and understanding dictate the guidelines of maturity. Today’s 18-year-olds are more aware, better educated, and better informed than those of yesteryear. These elements contribute to a greater understanding. Violent protests are certainly no measure of maturity or immaturity; they are more aptly frustrations, frustrations which even those over the age of 21 are liable to have at one time or another. Furthermore, many 18-year-olds are married and also pay taxes. If they are disenfranchised, this can constitute the governmental sin of taxation without representation.

If this democratic system is going to extend the right to vote to all of its qualified citizens, then I go on record as saying that qualified 21-year-olds today are as qualified to vote, if not better qualified to vote, than those older citizens who are recognized today as qualified voters. Also, if we are to gain the all-important confidence of those citizens 18 years and older, we must acknowledge by our legislative confidence their ability, and their right, to vote. I compliment all of my colleagues in the House who have contributed to the passage of this bill.

Mr. LEGGETT. Mr. Speaker, I do not want to appear unappreciative of the constitutional questions raised by this bill. But I suggest that, since the 18-year-old vote would not go into effect for half a year, this issue can and will be resolved in the courts. The real issue before us is whether or not we want our young people to vote.

There are those who say young people’s minds are not sufficiently developed to enable them to vote intelligently. But the people who design intelligence tests have never found that any group of 21-year-olds could not do better than that which is standard. Increases until about the age of 16, remains constant until about age 29, and from there slowly declines. So it appears that our 18- to 21-year-olds have better neural circuits than do most of the Members of this body.

There are those who say young people lack the information they need to vote. But somehow I doubt we will ever see college students ripping down a Red Cross flag in the belief it was a Vietcong flag, as our middle-aged hard-hat friends did in New York the other day.

There are those who say people lack experience and maturity. In a sense, the very opposite is true. A 20-year-old has not witnessed as much history as has a 40- or 50-year-old. But I suggest this may be as much of an asset as it is a handicap. All too often, older people do not learn from experience. Instead, they become fixated by it. But young people have heard our diplomats vainly try to force the nationalist struggles of Southeast Asia into the pattern of the Munich disaster they witnessed in their formative years? For how long have we watched our generals trying to fight the Vietnam war as if it were the World War II of their formative years?

We need voters with experience. But we also need those who are not bound to the mistakes of the past.

There are those who say young people should not vote because they do not hold jobs or pay taxes. But even if this argument were factually sound, which it is not, I do not think we would have to accept it. Young people have more tax-paying years to look forward to than we do. And in every other sense, they have a bigger stake in the country than we do. They are going to have to live with it a heck of a lot longer than will the people now running it.

But these are debating points. Here is what the question comes down to: Are 18- to 21-year-olds capable of voting responsibly, or should we throw them out?

For my part, the answer is unequivocally affirmative. I have found them to be more idealistic, more concerned, and better informed than their elders, and I suggest we allow any generation of young people in our history in these respects.

Mr. Speaker, the country is mired in an aimless and misconceived war in Southeast Asia. We are caught up in a sterile and dangerous arms race. We have poverty, hunger, neglected health and education programs, and we are ridden with racial tension. We tend to look at these things and say we know they are bad, but at the same time developing and we cannot expect to get rid of them overnight. But the young people could not care less how long it took us to create a problem; they want to know exactly why it cannot be solved overnight. And many times we find there is no reason why it cannot be done, other than our own complacency. And not being able to come up with a reason why it cannot be done, sometimes we go ahead and do it.

So I say we need these young people as active participants in our political system. I say let us give them the vote, and both they and the country will be the better for it.

Mr. COLLIER. Mr. Speaker, it is regrettable that political expediency has so frequently of late been given priority over the preservation of the Constitution of the United States.

On seven occasions during the past 14 years, I have raised my hand in this Chamber to take an oath to uphold the Constitution. I intend to do so today in fulfilling my obligation to that oath when we reach a final vote on H.R. 4249.

I do not believe that in deep conviction I can vote for a bill which to me flagrantly violates the Constitution. I do not believe that I can vote for a bill which to me flagrantly violates the historical and traditional right of the several States to establish voter qualifications except as they violate other provisions of the Constitution.

If the Constitution is not to yield to political pressures stemming from troublesome problems of our day, we could deal with the matter of lowering the voting age as it properly should be done—through the adoption of a resolution calling for a constitutional amendment and permitting the States to ratify or reject the proposed amendment. A trial of the procedure properly followed when the women of this country were enfranchised by the 19th amendment to the Constitution in 1920.

The fact that the authors of the bill provided for a delayed effective date because of the probability of its being declared unconstitutional by the Supreme Court, is surely an indication that following the constitutional procedure they believe that the Supreme Court will be obliged to rule this bill unconstitutional, and this will merely delay the consideration of the issue under the proper procedure.

There are other serious ramifications to this legislation which cause me to regret the hasty, unwise, and politically expedient course of action which it appears this House is about to take today.

Mr. CHAPPELL. Mr. Speaker, consideration by the Congress in setting the voting age for the States is clearly a conflict with the Constitution. The Constitution makes no allowance for it. Its voting qualifications, I believe the Voting Rights Act, in setting the age limit for voting, is a further usurpation of power of the States by the Federal Government.

In my own home State of Florida, this very issue will be considered on the ballot in November. This is as it should be. The States should be allowed to control their own destinies without the overriding interference by the Federal Government.

The Voting Rights Act, which extends the vote to 18-year-olds, likewise extends for 5 years the provision whereby the Attorney General will continue to oversee election procedures in the South. In effect, we are continuing to make five Southern States the whipping boys of the Nation. Under the provisions of this act, they are unable to change any election laws without the approval of the Attorney General. Forty-five States can make any changes their elected officials wish to consider. The Attorney General sends supervisors into these States, just as in the reconstruction days, to oversee election procedures. We have the same expression of attitude by many in the Congress as during that era—presupposing some wrongdoing on these States’ part.

Mr. Speaker, I realize that many in the Congress who are in favor of the Voting Rights Act, are under the impression that by Congress acting to give the 18-year-olds the right to vote, they are voting for harmony and peace within the Nation. But it seems to me, Mr. Speaker, that anytime in this Nation that Congress usurps the power of the States, we are buying a dime’s worth of peace for a quarter’s worth of testing for, as we further erode the States we further despoil the liberties granted to us under the Constitution and ultimately we destroy the very system of checks and balances which we adopted to protect ourselves.

Mr. Speaker, let us not further assault our foundation of freedom for expediency’s sake. Let us leave this responsi-
bility with the States' elected officials, where it rightfully belongs.

Mr. MATSUNAGA. Mr. Speaker, I yield 5 minutes to the distinguished Speaker of the House, the gentleman from Maryland (Mr. McCormack).

Mr. McCORMACK. Mr. Speaker, this is probably one of the most important bills that has been before this body in many years.

It involves, in the question that is before us today, two very important matters:

One, the extension of the voting rights act.

Now we all are practical legislatures. We know that if this bill goes to conference, its extension is seriously endangered.

Second, it involves the voting right at 18 years of age.

The gentleman from California made a very pertinent observation during his remarks. I think it is an observation which strongly supports concurrence in the Senate amendments—when the gentleman from California stated that we are not the Supreme Court of the United States. Of course, that means on the constitutional question that will finally be resolved by the Supreme Court. How true that is.

I therefore suggest to any other person, if I might make the suggestion—I would suggest to anyone who believes in voting at the age of 18 and 19 and 20, and who favors the extension of the Voting Rights Act, to be sure that it will not be defeated and prevented from being enacted into law this year.

I would suggest that my colleagues who favor such extension of the Voting Rights Act determine the constitutional question in favor of its constitutionality, because the matter will have to be passed upon by the Supreme Court.

Furthermore, as to the constitutional method, it would take at least 10 to 20 years of constitutional amendment would get through this body and be adopted by the necessary number of States to provide for voting at the age of 18 and 19 and 20.

In the constitutional question we have such eminent scholars as Dr. Paul Freund of Harvard and Archibald Cox, former Solicitor General of the United States, that the Congress possesses ample constitutional authority to lower the voting age by statute.

We also have a strong indication in Supreme Court decisions such as in Katzenbach against Morgan, by 7-to-2 majority, that there is no indication that this question comes within the power and purview of the Congress of the United States.

To me the question is whether or not Americans 18 years of age, and 19 years of age, and 20 years of age are qualified from an educational angle to assume the fullness of citizenship.

At birth they are citizens. Every child born in this country is a citizen. The question is the assumption of the fullness of citizenship, (Mr. McCormack.)

It seems to me that the educational institutions of our country today qualify Americans who are 18, 19, and 20 years of age to assume the fullness of citizenship.

On that point I call attention to the fact that four States of the Union already provide the privilege of voting for those under 21 years of age. One of the leaders, one that has been a leader, is the great State of Georgia.

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

Mr. McCORMACK. I yield to the gentleman from Louisiana.

Mr. BOGGS. I thank the distinguished Speaker for yielding to me. I congratulate the Speaker on the very fine statement he has made and I concur in what he has said. What the young people of this country want is to be a part of our democracy and to be responsible citizens. In my judgment, there is no more important vote that we can cast in this session than this vote.

Mr. McCORMACK. I also wish to point out in respect to the educational abilities of Americans 18, 19, and 20 years of age that we are talking about citizens. We are not conferring citizenship because they are citizens once they are born. The question is the assumption of the fullness of citizenship, to wit, the vote.

For example, in 1920, just 50 years ago, only 17 percent of Americans between the ages of 21 and 24 were high school graduates. Only 18 percent of them went on to college.

Today, by contrast, 79 percent of Americans in this age group are high school graduates and 47 percent go on to college.

On the question of ability and assuming the fullness of citizenship, clearly the evidence is uncontradicted and overwhelming, and on that ground we should not have any hesitancy in making our decision.

I am very happy to see the bipartisan support for the resolution today. That is as it should be. I congratulate my colleagues. I realize that in the Congress are differences on the constitutional question. But on that question I urge that any doubts be resolved in favor of constitutionality, because the Supreme Court is going to pass upon the question.

In the constitutional question we have such good and sufficient reasons why, in my opinion, we should vote on the previous question. In the first place, let me point out, that if this resolution is approved, and the bill is signed by the President of the United States, from the date that it becomes law—if it does—until there is a decision by the U.S. Supreme Court, every State, every municipal and every school board votes, and we can have the election with the age of 18, and the voting vote will be in jeopardy—every one.

There will be a delay before the Supreme Court will make a decision. In South Carolina versus Katzenbach, 383 U.S. 301, the delay between the enactment of the law suit and the Supreme Court decision was 4 months. In Katzenbach versus Morgan, 384 U.S. 641, the delay was 10 months. This would create serious problems.

I contacted a most eminent bond lawyer in the State of Michigan, an attorney who passes judgment in many instances on whether or not a municipality, a State...
June 17, 1970

CONGRESSIONAL RECORD — HOUSE

20197

or school board bond issue is valid. I asked him, Mr. Speaker, this eminent bond attorney, whether he, in his capacity, would validate those bonds and approve their sale. This is what he wrote, dated June 15.

DICKINSON, Wright, McKean & Cudlip,
Representative Gerald R. Ford,
U.S. Capitol,
Washington, D.C.

Dear Congressman Ford: You have asked for our comments, as bond attorneys in the State of Michigan, on the possible effectiveness as attacks on the constitutionality of the Act of Congress having been resolved in favor of such Act by the U.S. Supreme Court.

In order for a bond voter under 21 years of age to vote in an election, we will require separate ballots to be issued or separate machines to be used and the separate ballot will contain all bond and mileage propositions. We will be able to approve only those propositions which are authorized by the required majority of all persons voting including both those voters over 21 years of age and those under and also which are carried by a majority.

We appreciate that the separation procedures are complicated and expensive and will probably slow the vote in heavily attended elections. We are of the opinion that the Act, until the constitutional question is resolved. Yours very truly,

Charles R. Moon.

Gentlemen, we put a great burden on ourselves if we, by the action today, put in jeopardy $6 billion of State, municipal, and school board bond issue election. There are usually three to four thousand such elections taken every year, and they involve approximately $6 billion worth of water pollution projects, school buildings, and other programs and projects.

I say we should vote against the previous question and we should take the course of action recommended by the gentleman from California. Vote no on the previous question.

Let me make one other point. This proposition is coming to the floor of the House under the most indefensible conditions of legislation and parliamentary procedure I have ever seen. They are, in effect, asked to make a historic decision and there have been no hearings held in the Committee on the Judiciary in the House on this proposition that Congress, as a Federal legislative act, give the right to vote to 18-year-olds in local and State elections. Not one hearing has been held on this issue before the Committee on the Judiciary in the House. Not one hearing has been held on the Constitutionality of this act, and not one on this constitutional issue. And we are asked, in less than an hour, to vote on this proposition. It is the most indefensible procedure I have ever seen.

Let me say this also. Very seldom, Mr. Speaker, do I quote, to back up my argu-

ments, a magazine called the New Republic, but in the June 20 issue of the New Republic, there is an editorial, and here is what this editorial says:

Keep It Brief

The Voting Rights Act of 1965, quite likely the single most effective civil rights measure ever enacted by Congress in history, expired in August, and it must be extended. Despite some initial equivocation by the Nixon Administration, the Senate and Congress Administration ended by supporting it. But the Senate attached a rider to the Act, which will enfranchise 18-year-olds in both State and federal elections. Senate minority leader Mansfield has proposed a separate policy is bad legislative practice, endangering the one and burling consideration of the Act.

In the Senate, a Voting Rights Bill was passed before the 18-year-vote was given a piggy-back on it, liberals on the Rules Committee, with the support of the Democratic leadership, succeeded in sending the Senate package to the floor under a rule requiring the House to vote the whole thing up or down. No amendments will be permitted. Anyone who supports extension of the Voting Rights Act but not the enforcement of 18-year-olds in the Senate, the Senate majority has to swallow the rider if he feels strongly enough about the Voting Rights Act, it would have to sacrifice itself to the rider. And he will have to make up his mind in the course of a debate limited to one hour: half to each side, which means a quirk in the side to the right. If you like.

Now there was a hearing and some debate on the rider in the Senate. There has been no hearing, no debate, no debate in the House, not five minutes. Yet there is clearly something of consequence to debate: whether this extension of franchise by the Towns, legislative consent of 17 constitutional and would be so held, and whether, there being at the very least doubt about constitutionality Congress should be acting so responsibly in throwing the burden of a difficult decision on the Court, rather than going the route of a Constitutional Amendment. Yet where are the usual guardians of legislative process, of full and free debate? They are silent. They are fighting fire with fire, they tell themselves, to send the Voting Rights Act back to the Senate by separating the rider from it would be to give another set of arbitrary hierarchic, the Southeners, a chance to sacrifice itself to death.

But the Voting Rights Act was filibustered the first time through the Senate, when it became the Administration and the House was committed to it. Was there enough to be gained in this sorry exercise to offset the discredit that the usual advocates of process, of constitutionalism and of democratic reform have brought on themselves? Who will believe that these are really the things they care about, next time they say so?

I say that the resolution should be defeated and the previous question voted down. Mrs. MATSUNAGA. Mr. Speaker, I yield 9 minutes to the chairman of the Rules Committee (Mr. Colmer).

MRS. GREEN of Oregon, Mr. Speaker, 2 or 3 months ago, I came out publicly for the Senate amendment, providing for the 18-year-old vote, subject to a constitutional court test. Every other member of the Oregon delegation came out publicly for the Senate amendment. I was the one on the Oregon ballot in the Oregon primary less than 1 month ago. I believe it is accurate to say that almost every political leader in Oregon really campaigned for the 18-year-old vote, there were 2 or 3 months of this, it went down to a better than 2 to 1 defeat.

I suggest that, as a Representative, I certainly must argue and vote for those things which I hold with the best possible information, I do not have a chance at the time. But it seems to me this includes the obligation to represent the views of the majority of the people of Oregon and the Senate's wishes when I clearly knew them, even though they differ from mine.

Of course, no Representative of the people can sacrifice his or her conscience on any vote. Regarding this issue, there is this question of conscience. To make even though my judgment was that the 18-year-old vote was worthy of endorsement with constitutional review, the majority of my constituents have clearly judged otherwise, and I would respect and yield to their judgment. The mandate has been clearly given by a better than 2 to 1 vote in Oregon. I intend to honor the results of that democratic election.

Mr. Speaker, one of the great tragedies of what we are going through here today is that very limited time.

Here we are, going to consider a new version of a civil rights voting rights bill. Here we are, going to invade new territory and attempt to amend the Constitution of the United States by statute, all within the same legislative session.

How many Members among you will have or have had an opportunity to voice approval or disapproval of this measure? It is a tragic situation. The beloved Speaker just said it was one of the most historic and important bills to come before this House in years, and yet my beloved Speaker would rush this important piece of legislation through this House with less than an hour of debate.

Some of us are having a remark on the floor of this House, expressed my exasperation at this body becoming a second-class legislative body, permitting the other body to write the legislation. Here we are doing exactly that same thing and following that same course.

What are you really doing here—those of you who profess great love for this body, and I am sure we all do, including the Speaker himself, and that to put down this body a unicameral legislative body. We might just as well quit and the other body what they think we ought to do over here; and permit them to write the legislation in the first place.

Now again I am pressed for time, although I admit I have the lion's share of it because I was in position to get it.

But what are we doing here? We are considering a bill that this is a bill where we do not have time to debate this civil rights bill, this new version that the Senate wrote. I do not even have the time to make a comparison between the House-passed version and the one passed by the Senate. You would think it would
be the duty of the learned chairman and the other members of the Committee on the Judiciary to try to protect the House's position in this matter and send it to the Senate. We do not wish to talk about discussing that. I am going to dismiss it with this one remark. It makes no difference what you do here today, whether you send this bill to conference in the order you offer it or add it, it is, unless the President vetoes this you are going to have a civil rights bill voted, with all of the hollering about flibusters to the contrary notwithstanding.

Let us say to the interested friends from New York and others that the day of the civil rights flibuster in the other body has passed. So we get down to one question, aside from following the orderly procedures which I think the leadership of this House on both sides ought to be for, of sending this bill to conference and trying to iron out these matters there. We have only one question left, and that is the question of voting rights for 18-year-olds.

Mr. Speaker, the gentleman from Oregon referred to what his State has done. Fourteen States have passed on this matter and denied it, and only four have passed it.

So, maybe, it is not as popular as some of you think it is because of all the campus disturbances. But I am not discussing the merits of this bill. I am discussing the Constitution of the United States and the orderly process of legislating.

Oh, I know that we have gotten briefs here from learned Harvard professors. However, as far as I am concerned I would rather have the opinion of the very learned constitutional lawyer on this floor, the gentleman from Virginia (Mr. POPE) and the gentleman from New York (Mr. Celler), both of whom have publicly stated that it is unconstitutional. But, expediency enters into this matter. And this gentleman from New York (Mr. Celler), still admitting that the 18-year amendment is unconstitutional resorts to expediency.

Permit me to quote from the Constitution of the United States.

First, article I, section 2 of that immortal document provides—

The House of Representatives shall be composed of Members chosen every second year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

Of course, the word Electors as used here is synonymous with voters.

Can anyone deny, from a reading of this provision, that the power to name the qualifications of voters is delegated to the States?

And now I quote section 2 of the XIV amendment as follows:

Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of free persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President or Vice President of the United States, Senators from State, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged by the States in the enjoyment of any of the rights specified in the first article, or other crimes, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

It will be noted, and I wish to emphasize, in this amendment the phrase 21 years of age is used twice. And, I should also like to call the attention of my colleagues to the amendment to the point that is the one relied upon by the proponents of the voting rights bill to give voting rights to the slaves who had just been liberated.

Again, after the Constitution had been amended providing for the election of U.S. Senators by the XVII amendment and not by statute, this amendment repeats section 2 of article I, providing for the qualifications for voters in the election of Senators to be the same as those provided for the election of Members of the House of Representatives.

To wit: The Electors—voters—in such States shall have the qualifications requisite for electors of the most numerous branch of the State Legislatures.

Moreover, the constitutional amendment number X provides:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

And finally, Mr. Speaker, to assure that the Constitution is followed and obeyed by the Members of Congress, article VI of the Constitution provides:

Article VI: The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all Executive and Judicial Officers, of both the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution. . .

Form of Oath: "I, A, B, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter, so help me God."

Certainly, when the ordinary layman cannot escape, after the most casual perusal of these amendments, the fact that the U.S. Constitution is crystal clear that the qualifications of voters cannot be provided by the enactment of a statutory provision. Of course, there is a way to change the Constitution legally, which the Constitution provides, and I quote the pertinent part of article V of the Constitution:

The Congress, whenever two thirds of both Houses shall deem necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of three quarters of the several States, or by Convention in three fourths thereof, as the one or the other may appear to them most convenient. . .

Assuredly, Mr. Speaker, if this provision to change the voting qualifications making 18-year-olds eligible to vote by statute is adopted, then it can not with equal ease and construction be said that we can change this constitutional provision requiring that the President of the United States be a natural born citizen and 35 years or more of age? Once we embark upon this method of amending the Constitution by statute there is no limit beyond which the reformers cannot go. We might just as well discard the Constitution entirely.

The SPEAKER. The gentleman from Mississippi (Mr. COLMER), may I just get a long count on that 10 seconds, because I wanted to conclude this statement with this remark?

There is no man in this House who has a more ardent desire to see Mr. Speaker, than I. I paid my respects to you the other day when we honored you in this Chamber. I hate to see you leave. But I cannot bring myself, as much as I would like to pay further tribute to you, to violate my conscience in order to give you a farewell sendoff. This is an important matter transcending personal affection.

The SPEAKER. The time of the gentleman from Mississippi (Mr. COLMER) has expired. All time has expired.

Mr. SMITH of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to review and examine their remarks on the matter now pending before the House and to include extraneous matter.

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

Mr. Speaker, there was no objection.

Mr. MATSUNAGA. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. MATSUNAGA. Is my understanding correct that an "aye" vote on House Resolution 914 is a vote to agree to the Senate amendments to H.R. 4249, the Voting Rights Extension Act, so that the bill may then be sent to the President before the existing act expires on August 6 of this year?

The SPEAKER. The Chair will state to the gentleman from Hawaii that while that is not a parliamentary inquiry, the gentleman from Hawaii is accurate.

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

The SPEAKER. Mr. GERALD R. FORD, Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman from Michigan will state his parliamentary inquiry.
Mr. GERARD R. FORD. Mr. Speaker, a "no" vote on the previous question does give an opportunity for one of those who led the fight against the resolution to amend the resolution now pending before the House.

The SPEAKER. The Chair will state in response to the parliamentary inquiry of the gentleman from Michigan that if the previous question is voted down, the resolution is open to amendment. The Chair's response is the same response as given to the gentleman from Hawaii.

PARLIAMENTARY INQUIRY

Mr. WATSON. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. WATSON. Mr. Speaker, if this resolution is voted down then, further, it will mean we will follow the orderly procedure and let this matter go to conference and reconcile the differences.

The SPEAKER. The Chair will state that if the resolution is voted down the matter will lie on the Speaker's desk until the House determines what it wants to do with the matter.

Mr. WATSON, I thank the Speaker.

The SPEAKER. The question is on ordering the previous question.

Mr. SMITH of California. Mr. Speaker, on that I demand the yeas and nays. The yeas and nays were ordered.

The question was taken; and there were yeas 224, nays 183, answered "present" 2, not voting 20, as follows:

[Roll No. 175]

CONGRESSIONAL RECORD — HOUSE 1999

Mr. Nedzi for, with Mr. Hicks against.

Mr. Kirwan for, with Mr. Hayes against.

Mr. Clark for, with Mr. King against.

Mr. Gaydos for, with Mr. Hébert against.

Mr. Schewelmen for, with Mr. Erieborn against.

Mr. Cowger for, with Mr. Cramer against.

Mr. Charles E. Wilson for, with Mr. O'Neal of Georgia against.

Mr. Pollock for, with Mr. Pelly against.

Until further notice:

Mr. Schneebeli with Mr. Bush.

Mr. McMillan with Mr. Roudubush.

Mr. Dent with Mr. Dawson.

Mr. DUNCAN changed his vote form "aye" to "nay." 

Mr. HICKS. Mr. Speaker, I have a live pair with the gentleman from Michigan (Mr. Nezo). If he had been present, he would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

Mr. HAYS. Mr. Speaker, I have a live pair with the gentleman from Ohio (Mr. KIRWAN). If he had been present, he would have voted "yea." I voted "nay." I withdraw by vote and vote "present."
The result of the vote was announced as recorded above.

The SPEAKER. The question is on the resolution.

Mr. GERARD R. FORD. Mr. Speaker, discomfort I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were yeas 272, nays 132, not voting 25, as follows:

[Roll No. 176]
Mr. DULSKI. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 17070) to improve and modernize the postal service, to reorganize the Post Office Department, and for other purposes.

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

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 17070, with Mr. Proctor of Illinois in the chair. The Clerk read the title of the bill. The CHAIRMAN. When the Committee met yesterday, the Clerk had read through the first section ending on page 156, line 14, of the committee substitute amendment.

AMENDMENT OFFERED BY MR. WRIGHT

Mr. WRIGHT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Wright: Strike out all after the enacting clause and insert in lieu thereof the following:

"Sec. 1. The compensation for each person employed by the Post Office Department is hereby increased by $5 per centum per annum.

"Sec. 2. Any person who, being an employee of the Post Office Department, shall participate in any illegal strike against the Post Office Department following the date of enactment of this Act, shall forfeit his employment by such act, and shall thereafter be ineligible for employment or reemployment by the Post Office Department."

Mr. WRIGHT. The gentleman from Texas (Mr. Wozack) is recognized.

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

The CHAIRMAN. The Chair will count.

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

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

[Roll No. 177]

Adair, Fulton, Tenn.
Ashley, Gaydos, Ill.
Baring, Craft, N.C.
Bell, Calif., Hall
Biny, Hanna, Iowa
Bush, Holifield, Ga.
Carey, Hoesser, Ind.
Cederberg, King, Wis.
Clerk, Kirwan, Ohio
Cambridge, Lane, Conn.
Clark, Long, Md., Clay
Coleman, McCullough, Washington, D.C.
Cowger, McNamara, St. Louis, Mo.
Crus, Mead, D.C.
Culver, MeKay, Ill.
Daddario, Daniels, N.J.
Dawson, Murphy, N.Y., Wyer
Erikson, Patient, Wis.
Evins, Tenn., O'Neal, Ga.
Nichols, Wis., Natcher, Ky.
O'Neill, Mass., Pelly, N.Y.
O'Reilly, Calif., Rogers, Colo.
Otn, Iowa, Shaw, Del.
Palmer, Pa., Schmitt, Calif.
Sanford, Sargent, Fla.
Schmidt, Sargent, Ohio
Scott, J., tallest, Utah
Shadegb, Schele, Neb.
Smith, Arkansas, Smith, Colo.
Smith, Arkansas, Smith, Iowa
Smith, Alaska, Sargent, Cali.
Smith, Delaware, Smith, Ill.
Smith, Idaho, Smith, Ohio
Smith, Kansas, Smith, S.M.
Smith, Kansas, Smith, Neb.
Smith, Kentucky, Smith, S.C.
Smith, Kentucky, Smith, W.Va.
Smith, Kentucky, Smith, Wyo.
Smith, Kentucky, Smith, Wyo.
Smith, Kentucky, Smith, Wyo.
Smith, Kentucky, Smith, Wyo.
Smith, Kentucky, Smith, Wyo.
Smith, Kentucky, Smith, Wyo.
Smith, Kentucky, Smith, Wyo.
Smith, Kentucky, Smith, Wyo.
Smith, Kentucky, Smith, Wyo.
Smith, Kentucky, Smith, Wyo.
Smith, Kentucky, Smith, Wyo.
Smith, Kentucky, Smith, Wyo.