($542 million) as well as HEW ($361.9 million). This amount exceeded the budget by $184 million, and last year's expenditures by $128 million. I opposed the bill for a number of reasons. (1) $183 million over the $4 billion budget figure which was more than enough. (2) Various programs financed by this bill are subject to criticism, including water pollution, school construction and school payments in lieu of taxes in "impacted areas." I cannot understand the reluctance of many in Congress to say no to any spending for projects which sound good. Take medical research, for example. Of course, we are all for medical research of all kinds, as we are all interested in the welfare, health, and education of our people. It does not follow that recognition of such needs means in every case more Federal law, spending, and control.

Many Members want to protest but wonder how you go about opposing a $4 billion "package", larded with boondoggle, when it also contains worthwhile projects and others that sound equally good—all for the general welfare of the people. How? Simply by voting against it. A vote "against" need not mean a Member is against trying to solve that need—rather that (1) it is not a matter of proper Federal concern, or (2) there is already enough money in the program without adding more, or (3) we can delay here and there until we can afford further spending.

For my part, I intend to remember my pledge of preserving fiscal responsibility by (1) balancing the budget, (2) reducing the debt, and (3) revising and reducing taxes. This course also assures keeping the dollar worth a dollar. True, it may not always be as appealing politically as the proffer of Federal money to constituents. In this cold war year, I suspect most Dallas folks would question, as I did, the urgency, if not the need, for Federal expenditures just now to finance studies on (1) the circulatory physiology of the octopus, (2) biological effects of parental age of mealworm beetles, (3) aging and ovaries of cockroaches, and (4) causes af alcoholism.

The White House Conference on Children and Youth brought to Washington a number of representatives from Dallas, as it did from all over the Nation, to discuss various problems affecting the Nation's youth. Capital newspapers reporting the event abound with suggestions for parents, educators and all levels of government. Federal aid to education, desegregation, birth control, and juvenile delinquency were in the forefront of attention. I couldn't help but wonder at some of the speeches I read—assuming they were reported accurately. It seems to me that in trying to solve some of these problems, action by the Federal Government should be a last resort because Federal action always imperils local initiative. Could it be that some of our trouble stems from too heavy a reliance on Government already—that we have tried inappropriately and foolishly to solve all our problems by transferring parental and community responsibility to the Washington bureaucracy? It is well to study our problems in a conference like this. It is my hope, though, that we do not end up expecting more Federal aid and direction to solve them. I wonder, too, if the Conference will recognize the spiritual base on which our society and government rests. Will the Conference even mention America's greatest strength throughout our history, our spiritual beliefs and the individual responsibility that, by definition, accompanies them? Surely nothing could be more ludicrous than for a people who have all but banished any word of God from our public schools to turn, then, to seek wisdom and guidance from the Federal bureaucracy.

This week's TV feature (WFAA, Sunday, 10:30 a.m.) was Dr. Keith Glennan, head of NASA (National Aeronautics and Space Administration) who discussed our space programs. The United States is making rapid strides in all areas, and concedes only a temporary lead to Russia in but one field, that of "launch vehicles."

Correction of last week's newsletter—Senator BARRY GOLDWATER's speech on foreign affairs was made in Washington, not Dallas where he spoke on labor management before the Public Affairs Luncheon Club.

SENATE

WEDNESDAY, APRIL 6, 1960

(Legislative day of Tuesday, April 5, 1960)

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

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

Our Father, God, in spite of all the clouds of doubt and falsehood which so often hide the sun, we know, as we turn to Thee, that the blue sky is the truth. We thank Thee for the dreams of our highest and best hours—visions of wildernesses now parched, which shall yet blossom as the rose.

We come seeking once more the faith that makes our dreams come true. Grant us the endurance of those who, in past dark and despairing days, were called to find their way, as we must, by the flame of a courage and a trust that no darkness can put out.

In these sacred weeks, as a lone cross looms against the sky, may our spirits be inspired as we behold a cruel object of torture changed into the shining splendor of the most sublime triumph of the ages.

We ask it in the name of the Redeemer who despised the shame and endured the cross for the joy that was set before Him. Amen.

THE JOURNAL

On request of Mr. JOHNSON of Texas, and by unanimous consent, the reading of the Journal of the proceedings of Tuesday, April 5, 1960, was dispensed with.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Miller, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The PRESIDENT pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Maurer, one of its reading clerks, announced that the House had passed, without amendment, the bill (S. 231) for the relief of Patricia Crouse Bredee.

The message also announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

H.R. 1402. An act for the relief of Leandro Pastor, Jr., and Pedro Pastor;

H.R. 1463. An act for the relief of Johan Karel Christoph Schlichter;

H.R. 1486. An act for the relief of David Tao Chung Wang;

H.R. 1519. An act for the relief of the legal guardian of Edward Peter Callas, a minor;

H.R. 1542. An act for the relief of Biagio D'Agata;

H.R. 1543. An act for the relief of Angela D'Agata Nicolosi;

H.R 2007. An act for the relief of May Hourani;

H.R. 2645. An act for the relief of Jesus Cruz-Figueroa;

H.R. 3122. An act directing the Secretary of the Interior to issue a homestead patent to the heirs of Frank L. Wilhelm;

H.R. 3253. An act for the relief of Ida Magyar;

H.R. 3827. An act for the relief of Jan P. Wilczynski;

H.R. 4763. An act for the relief of Josette A. M. Stanton;

H.R. 4834. An act for the relief of Giuseppe Antonio Turchi;

H.R. 5033. An act for the relief of Betty Keenan;

H.R. 6121. An act for the relief of Placid J. Pecoraro, Gabrielle Pecoraro, and their minor child, Joseph Pecoraro;

H.R. 6400. An act for the relief of Mrs. Clara Young;

H.R. 8417. An act for the relief of Grand Lodge of North Dakota, Ancient Free and Accepted Masons;

H.R. 8457. An act for the relief of Richard Schoenfelder and Lidwina S. Wagner;

H.R. 8798. An act for the relief of Romeo Gasparini;

H.R. 8888. An act for the relief of Angela Maria;

H.R. 9142. An act to provide for payment for lands heretofore conveyed to the United States as a basis for lieu selections from the public domain, and for other purposes;

H.R. 9751. An act for the relief of Mrs. Icile Helen Hinman;

H.R. 10564. An act for the relief of 2d Lt. James F. Richie; and

H.J. Res. 638. Joint resolution relating to deportation of certain aliens.

HOUSE BILLS AND JOINT RESOLUTION REFERRED

The following bills and joint resolution were severally read twice by their titles and referred as indicated:

H.R. 1402. An act for the relief of Leandro Pastor, Jr., and Pedro Pastor;

H.R. 1463. An act for the relief of Johan Karel Christoph Schlichter;

H.R. 1486. An act for the relief of David Tao Chung Wang;

H.R. 1519. An act for the relief of the legal guardian of Edward Peter Callas, a minor;

H.R. 1542. An act for the relief of Biagio D'Agata;

H.R. 1543. An act for the relief of Angela D'Agata Nicolosi;

H.R. 2007. An act for the relief of May Hourani;

H.R. 2645. An act for the relief of Jesus Cruz-Figueroa;

H.R. 3253. An act for the relief of Ida Magyar;

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H.R. 8798. An act for the relief of Romeo Gasparini;

H.R. 8888. An act for the relief of Angela Maria;

H.R. 10564. An act for the relief of 2d Lt. James F. Richie; and

H.J. Res. 638. Joint resolution relating to deportation of certain aliens; to the Committee on the Judiciary.

H.R. 3122. An act directing the Secretary of the Interior to issue a homestead patent to the heirs of Frank L. Wilhelm; and

H.R. 9142. An act to provide for payment for lands heretofore conveyed to the United States as a basis for lieu selections from the public domain, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 9751. An act for the relief of Mrs. Icile Helen Hinman; to the Committee on Post Office and Civil Service.

TRANSACTION OF ROUTINE BUSINESS

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that there be the usual morning hour, subject to a 3-minute limitation on statements.

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

ORDER FOR RECESS AT 12:20 P.M.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that at 12:20 p.m. today, the Senate stand in recess, subject to the call of the Chair, and proceed to the other body, for a joint meeting to hear a distinguished visitor from Latin America.

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

EXECUTIVE COMMUNICATIONS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REPORT ON OVEROBLIGATION OF AN APPROPRIATION

A letter from the Chairman, U.S. Atomic Energy Commission, Washington, D.C., reporting, pursuant to law, on the overobligation of an appropriation in that Commission; to the Committee on Appropriations.

REPORTS ON REAL PROPERTY EXEMPT FROM TAXATION IN THE DISTRICT OF COLUMBIA

A letter from the President, Board of Commissioners, District of Columbia, transmitting, pursuant to law, a report on real property exempt from taxation in the District of Columbia, during the calendar year 1957 (with an accompanying report); to the Committee on the District of Columbia.

A letter from the President, Board of Commissioners, District of Columbia, transmitting, pursuant to law, a report on real property exempt from taxation in the District of Columbia, specifically prior to passage of the act of December 24, 1942 (with an accompanying report); to the Committee on the District of Columbia.

RESTORATION TO THE UNITED STATES OF CERTAIN AMOUNTS EXPENDED IN THE DISTRICT OF COLUMBIA

A letter from the Acting President, Board of Commissioners, District of Columbia, transmitting a draft of proposed legislation to provide for the restoration to the United States of amounts expended in the District of Columbia in carrying out the Temporary Unemployment Compensation Act of 1958 (with an accompanying paper); to the Committee on the District of Columbia.

ADVANCE PAYMENT BY GOVERNMENT AGENCIES FOR REQUIRED PUBLICATIONS

A letter from the Administrative Assistant Secretary of the Interior, transmitting a draft of proposed legislation to provide agencies of the Government of the United States with authority to pay in advance for required publications (with an accompanying paper); to the Committee on Government Operations.

REPORT ON EXAMINATION OF CERTAIN SUBCONTRACTS AWARDED UNDER DEPARTMENT OF THE ARMY CONTRACTS

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the examination of subcontracts awarded by Western Electric Co., Inc., Winston-Salem, N.C., to Telecomputing Corp., Whittaker Gyro Division, Van Nuys, Calif., under Department of the Army contracts, dated March 1960 (with an accompanying report); to the Committee on Government Operations.

REPORTS ON RECEIPT OF APPLICATIONS FOR LOANS UNDER SMALL RECLAMATION PROJECTS ACT OF 1956

A letter from the Assistant Secretary of the Interior, reporting, pursuant to law, that the Eastern Municipal Water District, in Riverside County, Calif., had applied for a loan to be used for the construction of distribution facilities; to the Committee on Interior and Insular Affairs.

A letter from the Under Secretary of the Interior, reporting, pursuant to law, that the South Sutter Water District, in Sutter County, Calif., had applied for a loan of $4,875,600 (with accompanying papers); to the Committee on Interior and Insular Affairs.

AMENDMENT OF UNITED STATES CODE, RELATING TO ASSAULTS UPON, AND HOMICIDE OF, CERTAIN OFFICERS AND EMPLOYEES OF THE UNITED STATES

A letter from the Acting Secretary of Agriculture, transmitting a draft of proposed legislation to include certain officers and employees of the U.S. Department of Agriculture within the provisions of the United States Code relating to assaults upon, and homicide of, certain officers and employees of the United States as constituting a crime (with accompanying papers); to the Committee on the Judiciary.

REPORT ON PAYMENT OF CLAIMS ARISING FROM CORRECTION OF MILITARY OR NAVAL RECORDS

A letter from the Deputy Secretary of Defense, transmitting, pursuant to law, a report on the payment of claims arising from the correction of military or naval records, for the period July 1, 1959, through December 31, 1959 (with an accompanying report); to the Committee on the Judiciary.

SUSPENSION OF DEPORTATION OF CERTAIN ALIENS

A letter from the Commissioner, Immigration, and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders suspending deportation of certain aliens, together with a statement of the facts and pertinent provisions of law pertaining to each alien, and the reasons for ordering such suspension (with accompanying papers); to the Committee on the Judiciary.

STATUS OF PERMANENT RESIDENCE FOR A CERTAIN ALIEN

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a copy of the order granting the application for permanent residence filed by Chong Yue Wah, also known as Chong Wak Yue, together with a statement of the facts and pertinent provisions of law and the reasons for granting such application (with accompanying papers); to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

By the PRESIDENT pro tempore:

A joint resolution of the Legislature of the State of California; to the Committee on Agriculture and Forestry:

"ASSEMBLY JOINT RESOLUTION 11

"Resolution relative to agricultural economy

"Whereas the well-being of the agricultural industry of the United States is vital not only to those actively engaged in the farming, ranching, animal production and other segments of the industry but also to the entire Nation, for the economic stability of agriculture directly affects all citizens of this country; and

"Whereas, many segments of our agricultural industry are presently experiencing ever-increasing difficulty in maintaining that stability so essential to a vigorous, growing economy and unless steps are taken to insure such stability this weakness may well threaten the entire economy of our Nation; and

"Whereas California has for many years found the use of self-help type of stabilization and marketing orders a most effective means to provide such stability with equitable treatment to all persons concerned from the individual producer, the many handlers and processors, the retail seller, to the ultimate consumer, and

"Whereas, the present Congress has before it measures which will allow such programs to be used to aid the poultry industry, which is in great need for such help, and other legislation which would make available to farm producers generally the use of self-help type of marketing programs and including measures which will aid in the further development of family farms and stabilize their income; Now, therefore, be it

"Resolved by the Assembly and Senate of the State of California (jointly), That the Legislature of the State of California respectfully memorializes the Congress of the United States to favorably consider the enactment of self-help legislation to authorize poultry stabilization and marketing programs and legislation to further family farm development and stabilize such farm income; and be it further

"Resolved, That the chief clerk of the assembly is hereby directed to transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A joint resolution of the Legislature of the State of California; to the Committee on Appropriations:

"ASSEMBLY JOINT RESOLUTION 6

"Resolution relative to the Merced County stream group flood control project

"Whereas in 1955, the U.S. Corps of Engineers completed construction, as part of the authorized flood control work on the Merced County stream group, of dams and reservoirs on Bear, Burns, Owens, and Mariposa Creeks, and diversion channels from Black Rascal Creek to Bear Creek and from Owens Creek to Mariposa Creek; and

"Whereas the State of California, acting through the reclamation board, has completed the enlargement of the channels downstream from the above dams in conformity with the plans of the Corps of Engineers; and

"Whereas while the above completed works provide a substantial degree of protection, the floods during December of 1955 and the spring of 1958 graphically indicate that there are some inadequacies with respect to capacity and the areas protected by the flood control works; and

"Whereas there are no protective works on Fahrens Creek and Canal Creek, which creeks produce floodflows that endanger the Castle Air Force Base installation of the Strategic Air Command; and

"Whereas the runoff from Castle Air Force Base into Canal Creek has been continually increasing due to the expansion of runways and building areas, which runoff has increased peak flows in Canal Creek to the detriment of properties both upstream and downstream from the base; and

"Whereas in addition, the reaches of Bear, Owens, Miles, and Mariposa Creeks downstream from the westerly boundary of the authorized Merced County stream group flood control project are unimproved, thereby leaving the adjacent lands subject to periodic flooding; and

"Whereas the rapid economic growth of the city of Merced and the surrounding areas and the proximity of Castle Air Force Base would appear to justify a higher degree and larger area of protection than originally contemplated in connection with the Merced County stream group project; and

"Whereas in 1958, the Public Works Committee of the House of Representatives authorized a review study of the Merced County stream group project by the Corps of Engineers, the total estimated cost of which was $80,000, of which $15,000 can be used effectively by the Corps of Engineers during the fiscal year commencing July 1, 1960: Now, therefore, be it

"Resolved by the Assembly and Senate of the State of California (jointly), That the Legislature of the State of California respectfully memorializes the Congress of the United States to appropriate the sum of $15,000 for expenditure by the U.S. Corps of Engineers during the fiscal year beginning July 1, 1960, to initiate the review study of the Merced County stream group flood control project; and be it further

"Resolved, That the chief clerk of the assembly be hereby directed to transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A joint resolution of the Legislature of the State of California; to the Committee on Armed Services:

"ASSEMBLY JOINT RESOLUTION 3

"Resolution relative to west coast shipbuilding

"Whereas a bill, H.R. 8093, has been introduced in the Congress of the United States to delete subsection (d) of section 502 of the Merchant Marine Act, 1936 (49 Stat. 1985), which allows a 6-percent differential for bids of west coast shipyards for the construction of ships to be operated by steamship companies whose home office is located at Pacific coast ports; and

"Whereas Congressman JOHN F. SHELLEY has introduced H.R. 9899 to extend the allowance of a 6-percent differential for bids of west coast shipyards for the construction of all ships regardless of the location of the home port of the steamship company; and

"Whereas the retention and expansion of the 6-percent differential is vital for the preservation of the west coast shipbuilding industry because of the higher construction costs of this area; and

"Whereas the security of the Untied States requires a healthy and vigorous shipbuilding industry on the Pacific coast as well as on the Atlantic and gulf seaboards; and

"Whereas not only California but the other 12 Western States including Alaska and Hawaii will be affected by the proposed repeal or extension of the 6-percent differential, since they furnish both raw materials and manpower to the shipbuilding industry on the Pacific coast: Now, therefore, be it

"Resolved by the Assembly and Senate of the State of California (jointly), That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to retain and expand the 6 percent differential allowed for bids of west coast shipyards for the construction of ships by rejecting H.R. 8093 and supporting the Shelley bill H.R. 9899; and be it further

"Resolved, That the chief clerk of the assembly is directed to send copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California, and the other 12 Western States, in the Congress of the United States, and to Jeremy Ets-Hokin, chairman of the California Governor's Committee for Ship Construction and Repair, Thomas A. Rotell, executive secretary of the Pacific Coast Metal Trades District Council, Hugh Gallagher, chairman of the San Francisco Mayor's Committee for Shipping, Shipbuilding and Ship Repair, and Louis Ets-Hokin, president of the Western Shipbuilding Association."

Two joint resolutions of the Legislature of the State of California; to the Committee on Finance:

"ASSEMBLY JOINT RESOLUTION 4

"Resolution relative to the Federal cabaret excise tax

"Whereas the existing 20-percent rate of the Federal so-called cabaret excise tax on admissions to roof gardens, cabarets, and other similar places has resulted in a serious loss of customers by such places; and

"Whereas 500 of such places of entertainment operated by the hotels of the Nation were, among others, thereby forced to close; and

"Whereas 40,912 job opportunities were lost to musicians, the loss of which accounts for one-half of the present unemployment among this group; and

"Whereas 200,000 cooks, waiters, service help, and other entertainers have also lost job opportunities which otherwise would be available; and

"Whereas the Federal Government loses $11 million annually as a direct result only of the unemployment of such musicians, which amount represents income and business tax revenues in excess of what is presently collected under the cabaret tax; and

"Whereas the American people have uniformly supported the reduction or repeal of such cabaret tax since the termination of the wars during which the existing rates were adopted; and

"Whereas numerous measures have been introduced in the Congress of the United States which would provide tax relief from the cabaret tax; and

"Whereas the enactment of this legislation will contribute immeasurably to the economic health of the Nation, result in more employment among the affected groups, and increase the revenues in the U.S. Treasury: Now, therefore, be it

"Resolved by the Assembly and Senate of the State of California (jointly), That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to enact legislation giving the American people relief from the cabaret tax, either by the repeal of it or reduction of its rates; and be it further

"Resolved, That the chief clerk of the assembly is directed to transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

"ASSEMBLY JOINT RESOLUTION 7

"Resolution relative to the Veterans' Benefits Act of 1957

"Whereas the Veterans' Benefits Act of 1957 does not now provide a presumption that the death of a veteran resulted from disease or injury incurred or aggravated in line of duty while on active duty regardless of the number of years of active duty he may have served; and

"Whereas the deaths of most servicemen with 30 years or more active duty can be shown to have been the result of disease or injury incurred or aggravated in line of duty while on active duty; and

"Whereas it is often very difficult or impossible to establish the cause of death of servicemen with over 30 years' service and there is no adequate procedure to establish such cause of death; and

"Whereas many injustices have arisen due to the death of servicemen who have died after years of service without adequate provision and compensation being made to their families and widows; and

"Whereas adequate protection to widows and families would be to the material benefit of the Armed Forces of the United States and to the national defense; and

"Whereas there are many bills in the Veterans' Affairs Committee of the House of Representatives which would establish a presumption that the deaths of servicemen with over 30 years of active duty service are service connected: Now, therefore, be it

"Resolved by the Assembly and Senate of California (jointly), That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to amend the Veterans' Benefits Act of 1957 to provide a conclusive presumption of service connection in case of death of servicemen with 30 years active duty service and to extend the benefits which would arise from this amendment to the widows and families of servicemen who would be affected by this amendment but who died prior to its enactment; and be it further

"Resolved, That the chief clerk of the assembly be hereby directed to transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A joint resolution of the Legislature of the State of California; to the Committee on Interior and Insular Affairs:

"ASSEMBLY JOINT RESOLUTION 13

"Resolution relative to the Palace of Fine Arts in San Francisco

"Whereas the people of San Francisco are desirous of restoring the beautiful Palace of Fine Arts built for the Panama Pacific Exposition of 1915; and

"Whereas to accomplish this purpose, philanthropist Walter S. Johnson has magnanimously donated the sum of $2 million; and

"Whereas the remaining funds required for undertaking this project have been provided by the State of California and the city of San Francisco; and

"Whereas when the site of the palace was deeded to the city for the 1915 exposition, the Federal Government reserved to itself a right-of-way along Lyon Street; and

"Whereas it will be necessary to obtain a release of the right-of-way before San Francisco can deed the land to the State for commencement of the reconstruction: Now, therefore, be it

"Resolved by the Assembly and Senate of the State of California (jointly), That the Legislature of the State of California respectfully requests the Congress of the United States to approve the release of the right-of-way which it holds at the site of the Palace of Fine Arts in San Francisco; and be it further

"Resolved, That the chief clerk of the assembly is directed to transmit copies of this resolution to the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A joint resolution of the Legislature of the State of California; to the Committee on Labor and Public Welfare:

"ASSEMBLY JOINT RESOLUTION 8

"Resolution relative to the extension of educational and training benefits to persons entering the Armed Forces after January 31, 1955

"Whereas the Congress of the United States has recognized the justice, equity, and benefits to the Nation arising from giving educational and training benefits to veterans by enacting the Servicemen's Readjustment Act of 1944 (Public Law 346 of the 78th Congress) and the Veterans' Readjustment Act of 1952 (Public Law 550 of the 82d Congress); and

"Whereas the benefits under these acts are no longer provided to servicemen who entered the Armed Forces after January 31, 1955, notwithstanding the fact that the Nation has continued its compulsory military service program; and

"Whereas the result is that many young men who serve in our country's armed services will lose educational and economic opportunities even though the need for education for the purpose of competing in civilian life continues to be of great importance; and

"Whereas our Nation has found it necessary to its security, well-being, and position among nations to increase the educational level, professional competence, and technical skill of its citizens; and

"Whereas the increased earning power, increased efficiency in commerce and industry, and increased national product and income directly attributable to the program of educational and training benefits for servicemen results in increased tax revenues of the U.S. Government so that the cost of the program is largely repaid by the increased tax revenues: Now, therefore, be it

"Resolved by the Assembly and Senate of the State of California (jointly), That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to extend educational and training benefits similar to benefits provided by Public Law 550 of the 82d Congress as amended, to all persons who served, or who may serve, subject to such changes by law or regulation as Congress may deem fit to impose, in the Armed Forces of the United States during any period in which compulsory military service was or remains in effect; and be it further

"Resolved, That the chief clerk of the assembly be hereby directed to transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A joint resolution of the Legislature of the State of California; to the Committee on Public Works:

"ASSEMBLY JOINT RESOLUTION 10

"Resolution relative to flood control on the Eel, Mad, and Smith Rivers in the State of California

"Whereas storms along the north coastal area of California have caused excessive flood runoff in the Eel River 20 times during the past 50 years, three of which floods occurred in the last five years, with the largest record occurring in 1955; and

"Whereas the high water and floods in the lower reaches of the Eel River in December 1955, February 1958, and February 1960, exceeded the river capacity and overflows of the river banks caused erosion, damaged buildings, property, and roads and endangered the welfare and safety of residents of this area; and

"Whereas such damage or destruction due to flood waters will continue to occur at frequent intervals in the future unless remedial measures are taken to alleviate this condition; and

"Wheras preliminary examinations and surveys of Eel and Mad Rivers in Humboldt County were authorized by section 6 of the 1936 Flood Control Act (Public Law 738, 74th Congress; approved June 22, 1936); and

"Whereas a review of reports on Eel River in Mendocino County was authorized by a resolution of the House Committee on Public Works in August 1939, and a resolution by that committee in June 1956, provided additional authority for review of reports; and

"Whereas it is understood that it will be several years before a basinwide flood control project on the Eel River can be justified under the standard criteria; and

"Whereas no date has been established for the initiation of the investigation for a review of an unfavorable report submitted July 22, 1950 authorized by Congress on July 12, 1954 and June 13, 1956; and

"Whereas high water and floods in February 1960 again flooded the lower reaches of the Smith River, overflowing Lake Earl, Lake Talowa, and the agricultural lands, roads, bridges, and buildings in the Smith River Delta; and

"Whereas under the multiple use policy of Congress, this entire area, including 10 miles of beaches, urgently requires the making of this review and of bringing up to date engineering studies for flood control, conservation, shore and beach protection, recreation and wildlife habitat: Now, therefore, be it

"Resolved by the Assembly and Senate of the State of California (jointly), That the Legislature of the State of California respectfully memorializes the Corps of Engineers of the United States Army to take all steps necessary to complete its investigations, studies and review of reports in connection with flood control on the Eel, Mad, and Smith Rivers in Humboldt and Mendocino Counties so that the urgently needed flood control and protection works can be undertaken and completed at the earliest possible time; and be it further

"Resolved, That the chief clerk of the assembly be hereby directed to transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Secretary of the Army, and to the Chief of Engineers of the U.S. Army."

A concurrent resolution of the Legislature of the Territory of American Samoa; to the Committee on Interior and Insular Affairs:

"HOUSE CONCURRENT RESOLUTION 27

"Resolution requesting the Congress of the United States of America to enact organic legislation establishing a civil government for our country

"Whereas our people expressed a keen desire for organic legislation in a petition signed by all our leaders, the matais of Tutuila and Manu'a, at a general assembly held in 1945 at Gagamoe, a historical meeting place of our people; and

"Whereas a committee consisting of the Secretary of State, the Secretary of the Navy, and the Secretary of the Interior, recommended to the President of the United States in 1947 the enactment of organic legislation for our Territory as a step toward the fulfillment of the obligation assumed by the United States under article 73 of the United Nations Charter; and

"Whereas in 1949 the Department of the Interior, with the strong support of the President of the United States, recommended immediate enactment of organic legislation for our country in order to extend to us U.S. citizenship, a bill of rights, local legislative powers, an independent judiciary, and representation by a Resident Commissioner in the U.S. Congress; and

"Whereas we firmly believe that the enactment of organic legislation for American Samoa is the most effective and satisfactory way to discharge the responsibility of the United States under the United Nations Charter and to maintain fully its traditional role as the champion among nations of dependent people, of representative government, of justice under law, and of fundamental rights and human freedom for everyone everywhere; and

"Whereas with respect to organic legislation, it is the policy of the Department of the Interior to support such legislation when our people desire it and are ready for it, and our people, through their duly elected representatives, are asking for such legislation, believing firmly that our people are ready to begin their God-given right to make their own local laws; and

"Whereas the enactment of organic legislation for our country will not only furnish our people the fruits of democracy but will also serve notice to all nations in the Pacific Ocean area that the right of self-determination and freedom from oppression are granted by the Constitution of the United States by acts as well as by words: Now, therefore, be it

"Resolved by the House of Representatives of the Sixth Legislature of the Territory of American Samoa (the Senate concurring), That the Congress of the United States of America be, and it is hereby, respectfully requested to enact H.R. 4500, introduced in the House of Representatives of the 81st Congress of the United States of America, as the same will be amended by the 6th Legislature of the Territory of American Samoa and approved by a convention of the people of American Samoa called for that purpose; and be it further

"Resolved, That duly certified copies of this concurrent resolution be forwarded to the President of the United States of America, to the President of the Senate and Speaker of the House of Representatives of the 86th Congress, to the chairman of the House Committee on Interior and Insular Affairs, to the chairman of the Senate Committee on Interior and Insular Affairs, to the Secretary of the Interior, and to the Governor of American Samoa."

A resolution adopted by the Board of Supervisors of Merced County, Merced, Calif., favoring the enactment of House bill 7155, authorizing the construction of the

Federal share of the San Luis unit of the Central Valley project, California; to the Committee on Public Works.

By Mr. SALTONSTALL (for himself and Mr. KENNEDY):

Resolution of the General Court of the Commonwealth of Massachusetts; to the Committee on Finance:

"RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION AMENDING THE SOCIAL SECURITY LAW

"Whereas it is advisable to raise the maximum which an individual can earn while obtaining full social security benefits from the present $1,200 a year to $2,500 a year, and to permit wives to earn more than the present maximum of $1,200 a year: Therefore be it

"*Resolved*, That the General Court of Massachusetts respectfully urges the Congress of the United States to give early and favorable consideration to the enactment of legislation to amend the social security laws to raise the maximum which may be earned under the social security laws; and be it further

"*Resolved*, That copies of these resolutions be sent forthwith by the secretary of the Commonwealth to the Senators and Representatives in Congress from this Commonwealth.

"Adopted by the house of representatives February 9, 1960.

"LAWRENCE R. GROVE, *Clerk*.

"Adopted by the senate, in concurrence, March 2, 1960.

"IRVING N. HAYDEN, *Clerk*.

"Attest:

"JOSEPH D. WARD,
"Secretary of the Commonwealth."

Resolution of the General Court of the Commonwealth of Massachusetts; to the Committee on Public Works:

"RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT A FEDERAL AREA REDEVELOPMENT ACT

"Whereas passage of a Federal area redevelopment act would provide Federal aid for the revitalization of older mill and factory areas, and thereby enable the Commonwealth to compete more effectively with other States for new industry and provide funds for the retraining of workers in areas of chronic unemployment: Therefore be it

"*Resolved*, That the General Court of Massachusetts respectfully urges the Congress of the United States to give early and favorable consideration to the passage of a Federal area redevelopment act; and be it further

"*Resolved*, That copies of these resolutions be sent forthwith by the secretary of the Commonwealth to the Senators and Representatives in Congress from this Commonwealth.

"Adopted by the house of representatives, February 29, 1960.

"LAWRENCE R. GROVE,
"Clerk."

"Adopted by the senate, in concurrence, March 2, 1960.

"IRVING N. HAYDEN,
"Clerk."

"Attest:

"JOSEPH D. WARD,
"Secretary of the Commonwealth."

RESOLUTION OF SENATE OF STATE OF NEW JERSEY

Mr. CASE of New Jersey. Mr. President, the New Jersey State Senate has adopted a resolution honoring Abe J. Greene of Paterson, the managing editor of the Paterson Evening News, and one of New Jersey's best known and best respected citizens. The Nation as a whole has known of Mr. Greene's positive contributions to the world of boxing. For years he was head of the National Boxing Association, and his interest in promoting clean sports is as strong as ever. His contributions to the civic life of his home city and county—indeed, our entire State—are immeasurable.

The resolution was adopted by the New Jersey Senate, and none of the "whereases" which detail, in fact, his many contributions to our people, can ever measure my regard for him as a friend. I am grateful to M. Martin Turpanjian, president of the New Jersey League of Weekly Newspapers, who has been good enough to forward to me a copy of the senate resolution honoring Abe Greene, I ask unanimous consent that the resolution be printed in the RECORD.

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

Whereas Abe J. Greene, of Paterson, has been proclaimed Editor of the Year for 1959, by the New Jersey League of Weekly Newspapers, for being an effective and impressive super goodwill ambassador of the fourth estate of New Jersey for his illuminating editorial analysis of the national and international problems confronting our modern American civilization; for his adherence and loyalty to the pioneer concept of the true American way of life, with its lofty ideals of free speech, free press, and free religion guaranteed by our constitutional Bill of Rights; for his recognition as the foremost boxing commissioner of the United States; for his honored reelection for many years; and his advocacy for clean, wholesome sports. A plaque has been presented to Mr. Abe J. Greene by President M. Martin Turpanjian of New Jersey League of Weekly Newspapers on behalf of all the officers and members of the said organization. Mr. Turpanjian is also the editor of the Waldwick Jersey Parade and North Bergen Hudson Gazette. Mrs. Conrad Lyons, editor and publisher of Spotlight, America's picture news weekly of Newark is chairman of the board of directors of the league; and

Whereas Abe J. Greene has been in the newspaper writing field for a period of 40 years, as of January 2, 1960, he has demonstrated by his deeds of constructive service that he is a man possessing a great inherent reverence and respect for logical facts, for his influence has been felt as a power for good in all the communities served by the Paterson Evening News, which is regarded and appraised as the third peak of the evening newspapers of the State of New Jersey. He has inspired his newspaper editorials with the rare sense of impartiality and judicial poise of self-restraint which has endeared his opinions and ideas to his many readers throughout the Garden State; and

Whereas Abe J. Greene has the unique individuality and freedom from all conventional dogmas, by discarding all mental uniformity and conformity and always seeking to present nothing but factual logic and realistic conclusions; for his inspiring method of throwing the searchlight of truth on all our international relations aimed to stimulate and radiate in the American citizen a sense of patriotic fervor for the truly traditional concept of life. A great credit is due for the fortunate foresight and sagacious judgment of Harry B. Haines, the editor and publisher of the Paterson Evening News for his wise selection of Abe J. Greene 40 years ago as a member of his editorial staff; and

Whereas Abe J. Greene is widely known for his wisdom of mind, dignity of spirit, benevolence of heart, for his eloquent extemporaneous oratory and yet his deep sense of humility and his rare self-discipline has at all times during his four decades of unselfish civic service been demonstrated by his deeds and not mere words for he has made many loyal friends in Canada, South America, and the United States who admire him affectionately: Now, therefore, be it

Resolved, That the State Senate of the State of New Jersey extend to Abe J. Greene our felicitations in rounding out the 40th year as a newspaperman and for being selected Editor of the Year by the New Jersey League of Weekly Newspapers; and be it further

Resolved, That a copy of this resolution, signed by the president of the senate and attested by the secretary, be sent to Mr. Abe J. Greene.

RESOLUTION OF STUDENT ASSEMBLY OF UNIVERSITY OF TEXAS

Mr. YARBOROUGH. Mr. President, I ask unanimous consent to have printed in the RECORD a resolution adopted by the student assembly of the University of Texas on March 24, 1960, favoring the Kennedy-Clark amendment to the National Defense Education Act.

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

RESOLUTION PRESENTED IN THE STUDENT ASSEMBLY OF THE UNIVERSITY OF TEXAS

Now, therefore, be it

Resolved by the student assembly of the University of Texas, That the student assembly of the University of Texas favors the Kennedy-Clark amendment to the National Defense Education Act; be it further

Resolved, That the president of the Students' Association is hereby directed to use all means under his power to urge the passage of the Kennedy-Clark amendment to the National Defense Education Act.

Respectfully submitted.

JIM INFANTE,
Assemblyman Graduate.

Resolution 9–60, being adopted by the student assembly on March 24, 1960, is hereby certified as expressing the will of said assembly.

FRANK C. COOKSEY,
President, Students' Association.

BILLS INTRODUCED

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

By Mr. KERR (for himself and Mr. MONRONEY):

S. 3337. A bill to amend section 3(b) of the act of May 9, 1958 (72 Stat. 105), relating to the preparation of a roll of the members of the Otoe and Missouria Tribe and to per capita distribution of judgment funds; to the Committee on Interior and Insular Affairs.

By Mr. McCLELLAN (for himself and Mr. FULBRIGHT):

S. 3338. A bill to remove the present $5,000 limitation which prevents the Secretary of the Air Force from settling certain claims arising out of the crash of a United States Air Force aircraft at Little Rock, Ark.; to the Committee on the Judiciary.

(See the remarks of Mr. McCLELLAN when he introduced the above bill, which appear under a separate heading.)

By Mr. KERR:

S. 3339. A bill to provide that the Secretary of the Army shall establish a national cemetery in Fort Reno, Okla., on certain lands presently under the jurisdiction of the Secretary of Agriculture; to the Committee on Agriculture and Forestry.

By Mr. KEATING:

S. 3340. A bill to amend title 18, United States Code, to authorize certain communications to be intercepted in compliance with State law, and for other purposes; to the Committee on the Judiciary.

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

By Mr. BEALL:

S. 3341. A bill for the relief of Bernard Jacques Gerard Caradec; to the Committee on the Judiciary.

By Mr. MAGNUSON (by request):

S. 3342. A bill to clarify the powers of the Civil Aeronautics Board in respect of consolidation of certain proceedings;

S. 3343. A bill to amend the Communications Act of 1934 in order to give the Federal Communications Commission certain authority over radio receiving antennas; and

S. 3344. A bill to amend the act of October 9, 1940 (54 Stat. 1030, 1039) in order to increase the periods for which agreements for the operation of certain concessions may be granted at the Washington National Airport, and for other purposes; to the Committee on Interstate and Foreign Commerce.

(See the remarks of Mr. MAGNUSON when he introduced the above bill, which appear under separate headings.)

RESOLUTION

COMMENDATION OF POSTMASTER GENERAL'S CAMPAIGN AGAINST OBSCENE LITERATURE

Mr. WILEY submitted a resolution (S. Res. 301) commending the Postmaster General's campaign against obscene literature, which was referred to the Committee on Post Office and Civil Service.

(See the above resolution printed in full when submitted by Mr. WILEY, which appears under a separate heading.)

AMENDMENT OF TITLE 18, UNITED STATES CODE, RELATING TO INTERCEPTION OF CERTAIN COMMUNICATIONS

Mr. KEATING. Mr. President, I introduce, for appropriate reference, a bill to amend chapter 223 of title 18 of the United States Code to authorize certain communications to be intercepted in compliance with State law, and for other purposes.

An identical bill is today being introduced in the House of Representatives by Representative EMANUEL CELLER, the chairman of the House Committee on the Judiciary.

This bill is designed to relieve a law enforcement problem in New York and in other States which require court orders for wiretapping.

Effective action against organized crime in New York has been jeopardized by a series of court rulings virtually nullifying New York's wiretapping laws. These decisions interpret the Federal Communications Act to prohibit wiretapping by State authorities even under court order. This has resulted in the suppression of vital evidence in a number of important criminal cases in New York.

The evils of unrestricted wiretapping are well known. The New York statute on this subject, however, is most carefully drawn to protect against any unauthorized, uncontrolled snooping either by the police or by so-called "private eyes." Under present court decisions, this carefully worked out legislative scheme for safeguarding the public against electronic snooping without crippling effective police work, has been made almost inoperative.

We shall try our utmost to impress upon the Congress the critical importance of this problem to law enforcement, and we are hopeful that relief will be obtained before Congress adjourns.

I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

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

The bill (S. 3340) to amend title 18 of the United States Code to authorize certain communications to be intercepted in compliance with State law, and for other purposes, introduced by Mr. KEATING, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 223 of title 18 of the United States Code is amended by adding at the end thereof the following:

"§ 3501. Evidence of intercepted communications

"No law of the United States shall be construed to prohibit the interception, by any law enforcement officer or agency of any State (or any political subdivision thereof) in compliance with the provisions of any statute of such State, of any wire or radio communication, or the divulgence, in any proceeding in any court of such State, of the existence, contents, substance, purport, effect or meaning of any communication so intercepted, if such interception was made after determination by a court of such State that reasonable grounds existed for belief that such interception might disclose evidence of the commission of a crime."

SEC. 2. The analysis of chapter 223 of title 18 of the United States Code is amended by inserting immediately below "3500. Demands for production of statements and reports of witnesses." the following:

"3501. Evidence of intercepted communications."

CLARIFICATION OF POWERS OF CIVIL AERONAUTICS BOARD IN CONSOLIDATION OF CERTAIN PROCEEDINGS

Mr. MAGNUSON. Mr. President, by request, I introduce, for appropriate reference, a bill to clarify the powers of the Civil Aeronautics Board in respect of consolidation of certain proceedings. I ask unanimous consent that a letter from the Chairman of the Civil Aeronautics Board, requesting the proposed legislation, be printed in the RECORD.

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

The bill (S. 3342) to clarify the powers of the Civil Aeronautics Board in respect of consolidation of certain proceedings, introduced by Mr. MAGNUSON, by request, was received, read twice by its title, and referred to the Committee on Interstate and Foreign Commerce.

The letter presented by Mr. MAGNUSON is as follows:

CIVIL AERONAUTICS BOARD,
Washington, March 25, 1960.

HON. RICHARD M. NIXON,
President of the Senate,
U.S. Senate, Washington, D.C.

DEAR MR. PRESIDENT: The Civil Aeronautics Board recommends to the Congress for its consideration the enclosed draft of a proposed bill to clarify the powers of the Civil Aeronautics Board in respect of consolidation of certain proceedings.

The Board has been advised by the Bureau of the Budget that there is no objection to the presentation of the draft bill to the Congress for its consideration.

Sincerely yours,

JAMES R. DURFEE,
Chairman.

STATEMENT OF PURPOSE AND NEED FOR PROPOSED LEGISLATION

A bill to clarify the powers of the Civil Aeronautics Board in respect of consolidation of certain proceedings

One of the most persistent problems the Board has encountered, particularly in large area route proceedings, has been the contention of applicants at the consolidation stage, based on the doctrine of *Ashbacker Radio Corp.* v. *F.C.C.* (326 U.S. 327 (1945)), that they are entitled as a matter of legal right to consolidation of particular applications. Such an applicant usually asserts that the grant of an application which the Board proposes to hear will preclude a subsequent grant of its own application, and that the Board therefore must also hear its application in the proceeding and accord it comparative consideration. In many instances in the past, a refusal by the Board to consolidate has resulted in an appeal to the courts from the consolidation order, with a request that the court stay further procedural steps in the Board proceeding pending disposition of the petition for review.

The Board recognizes that essential fairness sometimes requires contemporaneous consideration of applications and that consolidation for hearing is often the most expedient means for achieving this end. We have, however, taken the position that failure to consolidate applications for hearing does not in and of itself result in any deprivation of right, and that, in any event, legal error in consolidation, like any other that may be committed in the course of a particular case, is not judicially reviewable except as an incident to judicial review of the Board's final order entered at the conclusion of the proceeding.

It is believed that legislation is needed which will (1) recognize the Board's right, in its sound discretion, to hear particular applications individually or in conjunction with others, (2) provide that any judicial review of alleged errors in consolidation can be obtained only at the conclusion of a proceeding, (3) provide that the Board shall not be required to hold, prior to a hearing on the merits, a preliminary hearing on consolidation, and (4) provide that the burden of establishing that applications should be consolidated for hearing or given contemporaneous consideration shall be on the person making request therefor.

CERTAIN AUTHORITY OF FEDERAL COMMUNICATIONS COMMISSION OVER RADIO RECEIVING ANTENNAS

Mr. MAGNUSON. Mr. President, by request, I introduced, for appropriate

reference, a bill to amend the Communications Act of 1934 in order to give the Federal Communications Commission certain authority over radio receiving antennas. I ask unanimous consent that a letter from the chairman of the Federal Communications Commission requesting the proposed legislation, be printed in the RECORD.

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

The bill (S. 3343) to amend the Communications Act of 1934 in order to give the Federal Communications Commission certain authority over radio receiving antennas, introduced by Mr. MAGNUSON, by request, was received, read twice by its title, and referred to the Committee on Interstate and Foreign Commerce.

The letter presented by Mr. MAGNUSON is as follows:

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., March 28, 1960.

The VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: The Commission wishes to recommend at this time for consideration of the Congress the enactment of legislation amending the Communications Act of 1934 (as amended), to authorize control over the installation, height, and location of receiving antenna towers. Attached is a copy of the bill as we drafted it as well as the justification (47 U.S.C. 302).

The Bureau of the Budget has advised the Commission that it has no objection to the submission of this letter.

The Commission considers the enactment of this legislation, which has been coordinated with the Air Coordinating Committee and its member agencies, of importance in facilitating a solution to the problems raised by the joint use of airspace by the aviation and broadcast industries so as to minimize the hazards to aviation safety. It is believed that the proposed legislation will protect the interests of aviation and at the same time will not impose an unreasonable burden on the broadcasting industry.

It is hoped, therefore, that this proposal will receive early and favorable consideration by the Congress. The Commission will be glad to furnish any additional information that may be desired by the Congress or by any committee to which this proposal is referred.

By direction of the Commission.

FREDERICK W. FORD,
Chairman.

JUSTIFICATION FOR PROPOSED AMENDMENT TO SECTION 302 OF THE COMMUNICATIONS ACT OF 1934, TO AUTHORIZE FEDERAL COMMUNICATIONS COMMISSION CONTROL OVER THE INSTALLATION, HEIGHT AND LOCATION OF RECEIVING ANTENNA TOWERS, 47 U.S.C. 302

The Commission wishes to recommend at this time for the consideration of the Congress the enactment of legislation amending the Communications Act of 1934, as amended, to authorize control over the installation, height, and location of receiving antenna towers (47 U.S.C. 302).

Concern has been expressed by aviation interests, both Government and non-Government, and by the general public, over the steadily increasing number of tall antenna towers which may, under certain circumstances, present a serious hazard to safety in the field of aviation. The current trend toward many high antenna towers presents a much more acute problem than that which has existed in the past, due to the much greater speeds attained by modern aircraft and due to the fact that towers built in the past are, as a general rule, of much less height than those currently being constructed. Furthermore, radio towers, being of latticed construction, are inherently less visible than solid structures such as buildings, water towers, smokestacks, and the like.

This concern about the present and potential hazard to aviation safety prompted the Air Coordinating Committee to establish a Joint Industry/Government Tall Structures Committee (JIGTSC) to investigate the problems raised in the joint use of airspace by the aviation and broadcast industries, and to recommend appropriate action establishing the position of the Federal Government in this matter. One of JIGTSC's recommendations was that "the FCC, supported by other interested agencies, seek legislation empowering it to control the installation, height, and location of receiving antenna towers. Such legislation would not provide any more stringent restrictions on receiving towers than on transmitting towers."

This Commission, after study and consideration of this JIGTSC recommendation, concluded that it would be of public benefit to control the installation, height, and location of receiving antenna towers, and that the Communications Act of 1934, as amended, does not now empower the Commission to exercise jurisdiction over receiving antenna towers unless such towers are a component part of a licensed radio transmitting facility. Therefore, a request for such authority is both necessary and appropriate.

Section 303(q) of the Communications Act of 1934, as amended, and as implementeed by part 17 of the Commission's rules, provides authority for requiring the painting and/or illumination of radio transmitting towers. Similarly, the courts have sustained the Commission in denying an application for a radio station license on the ground that there is a reasonable possibility that the contemplated transmitting tower would be a menace to air navigation. (See *Simmons* v. *Federal Communications Commission* (145 F. 2d 578 (1944).) Such authority, however, does not extend to receiving towers unless such a tower is a component part of a licensed radio transmitting facility which comes within the purview of the Communications Act. Therefore, if the hazard to air navigation which is presented by the existence of tall receiving towers is to be minimized, statutory authority to control the installation, height, and location of receiving antenna towers is necessary.

The Commission considers the enactment of this legislation, which has been coordinated with the Air Coordinating Committee and its member agencies, of the utmost importance in facilitating a solution to the problems raised by the joint use of airspace by the aviation and broadcast industries so as to minimize the hazards to aviation safety. It is believed that the proposed legislation will protect the interests of aviation and at the same time will not impose an unreasonable burden on the broadcasting industry.

INCREASED PERIODS FOR OPERATION OF CERTAIN CONCESSIONS AT WASHINGTON NATIONAL AIRPORT

Mr. MAGNUSON. Mr. President, by request, I introduce, for appropriate reference, a bill to amend the act of October 9, 1940 (54 Stat. 1030, 1039), in order to increase the periods for which agreements for the operation of certain concessions may be granted at the Washington National Airport, and for other purposes. I ask unanimous consent that a letter from the Administrator of the Federal Aviation Agency, requesting the proposed legislation, be printed in the RECORD.

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

The bill (S. 3344) to amend the act of October 9, 1940 (54 Stat. 1030, 1039), in order to increase the periods for which agreements for the operation of certain concessions may be granted at the Washington National Airport, and for other purposes, introduced by Mr. MAGNUSON, by request, was received, read twice by its title, and referred to the Committee on Interstate and Foreign Commerce.

The letter presented by Mr. MAGNUSON is as follows:

FEDERAL AVIATION AGENCY,
Washington, D.C., March 24, 1960.

HON. RICHARD M. NIXON,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: It is requested that the attached proposed bill "to amend the act of October 9, 1940 (54 Stat. 1030, 1039), in order to increase the periods for which agreements for the operation of certain concessions may be granted at the Washington National Airport, and for other purposes" be introduced in the Senate at your earliest convenience.

At the present time the need for first-class hotel facilities and services at the Washington National Airport is becoming increasingly evident. Several private investors, well known and established in the hotel industry, are extremely interested in providing this type of facility. These concerns have all made long-term proposals for the construction of a $3 to $5 million hotel to be located adjacent to the Washington National Airport. They have proposed a lease period of from 35 to 50 years for the purpose of borrowing long-term capital.

Under the provisions of the act entitled "An act making supplemental appropriations for the support of the Government for the fiscal year ending June 30, 1941, and for other purposes," approved October 9, 1940 (54 Stat. 1039), agreements for the operation of any concession, except the restaurant at Washington National Airport, are prohibited for a period exceeding 5 years. The construction of a permanent facility such as a hotel of the size required by this location, represents a potential investment of several million dollars. Obviously, the 5-year lease period is not sufficient to allow for amortization of the investment.

I feel certain that the Congress can appreciate the need for an adequate first-class hotel which would serve the large number of travelers arriving at and departing from Washington National Airport. The construction of large first-class hotels at other major airports in the United States, for example the hotel located at New York International Airport, is proof that such facilities are necessary for the benefit of the traveling public.

It should be pointed out that the granting of a long-term lease for the construction of such a hotel could be an extremely profitable venture and would provide additional funds to offset the operating costs of the airport.

Other important areas may be cited in which it would be advantageous to have longer leases than are now permitted. Among them are rental car maintenance buildings and in-flight commissary buildings which require considerable capital investment totaling upward of a million dollars.

Therefore, in the best interest of the Government, the 1940 Supplemental Appropriations Act should be amended as it pertains to the length of time for which leases and

concessions may be granted, so that in certain cases long-term leases could be made when it appears that a substantial capital investment for the permanent construction of buildings of substantial value, such as a hotel or in-flight commissary, may be required. This will be necessary before potential investors will show more than a casual interest in these must needed facilities.

It is the considered opinion of this Agency that the proposal will provide the necessary stimulus to encourage the construction of a hotel at the Washington National Airport, providing first-class facilities for travel, and a new means of revenue to offset the cost of operating the airport. It will also enable the airport to provide necessary improvements in its in-flight commissary facilities with resultant added revenues.

The Bureau of the Budget has advised that there would be no objection to the submission of this draft bill to the Congress.

Sincerely,

E. R. QUESADA,
Administrator.

THE POSTMASTER GENERAL'S CAMPAIGN AGAINST OBSCENE LITERATURE

Mr. WILEY. Mr. President, on June 5 of last year I introduced a bill, S. 2123, providing stiffer penalties for willful and continuing violations of the Federal obscenity laws. I said at that time that unscrupulous racketeers are doing a half-billion-dollar a year business in sending obscene magazines, books, records, and films to grownups and youth alike, all over the country. Our mails are being misused for this direct attack on the American family and American morals. The Post Office Department estimates that up to 1 million children will receive unsolicited pornographic literature this year.

In asking for stiffer penalties for those who violate the Federal antiobscenity laws, I stressed that the illicit dealers, making thousands of dollars a year, regard fines as a mere cost of doing business. The bill I introduced requires mandatory prison sentences for continuing violators.

But strengthening the Federal laws must be only one part of a broader program, for the major portion of the battle against this type of material must be carried out by the State and local authorities, by parent organizations, and by the public at large.

Since last year much community support has been mobilized behind law enforcement, in order to help apprehend mailers of and dealers in pornography. A most praiseworthy undertaking has been that of the St. Catherine's Holy Name Society in Milwaukee, Wis. Responding to the call for community action, the 1,700 men in the St. Catherine's Parish, their wives and children, have undertaken to assist the Post Office Department in its campaign.

At the request of the St. Catherine's Society I should like to submit a resolution commending the Post Office Department and the Postmaster General for their excellent national leadership in this endeavor. I should also like to have inserted, at this point of my comments, a letter from Mr. Walter L. Merten, president of the St. Catherine's Holy Name Society in Milwaukee, which calls attention to the need for alerting the public to the increasing menace of obscene literature.

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

The resolution (S. Res. 301) commending the Postmaster General's campaign against obscene literature, was referred to the Committee on Post Office and Civil Service, as follows:

Whereas the traffic in obscene materials constitutes a threat to the national welfare; and

Whereas the complete suppression of this illicit traffic requires (1) the vigorous administration and enforcement of existing laws by Federal, State, and local governments, (2) stronger laws to facilitate administration and enforcement at all levels of government, and (3) the support and cooperation of the public; and

Whereas the Post Office Department, which exercises an extremely important role in combating such traffic, has been conducting a vigorous campaign to prevent the use of the mails for the dissemination of such materials, and has sought to obtain in that connection the cooperation of an alert and informed citizenry: Now, therefore, be it

Resolved, That the commendation of the Senate is hereby extended to Postmaster General Summerfield, and to the Department which he heads, for the vigorous and continuing efforts of the Post Office Department to prevent the use of the United States mails for the transmission of obscene materials, and for the significant response which that Department has received in its drive to obtain the cooperation of an alert and informed citizenry in furtherance of such efforts.

The letter presented by Mr. WILEY is as follows:

ST. CATHERINE'S HOLY
NAME SOCIETY,
Milwaukee, Wis., March 31, 1960.

The Honorable ALEXANDER WILEY,
U.S. Senator,
Senate Office Building,
Washington, D.C.

DEAR SENATOR WILEY: The public service rendered by the Post Office Department and Postmaster Summerfield in joining the fight against obscene literature is most commendable. The Department's efforts in seeking the public's cooperation in reporting instances in which the U.S. mails are used as the transporting vehicle of pornography and smut has been effective.

The posters furnished to postal stations, pointing out that the mails are being used as a delivery media of obscenity and that only public cooperation will bring it to a stop, have alerted the public as to the increasing menace of this type of material.

There are 1,700 men in St. Catherine's Parish. These men through their holy name society request that the efforts and vigilance of the Department against pornographic material be recognized and commended. I have no hesitancy in saying that their wives and children join in this request.

On behalf of the Holy Name Society of St. Catherine's Parish, I respectfully request that a resolution be introduced in the U.S. Senate commending the Post Office Department and the Postmaster for their excellent work.

Please forward a copy of this resolution to me, after it has been printed and introduced, so that we can reproduce it and distribute it.

Very truly yours,

WALTER P. MEEKER,
President.

AMENDMENT OF MUTUAL SECURITY ACT OF 1954—AMENDMENT

Mr. MURRAY submitted an amendment, intended to be proposed by him, to the bill (S. 3058) to amend further the Mutual Security Act of 1954, as amended, and for other purposes, which was referred to the Committee on Foreign Relations, and ordered to be printed.

TREATY OF FRIENDSHIP WITH PAKISTAN, AND CONVENTION OF ESTABLISHMENT WITH FRANCE—REMOVAL OF INJUNCTION OF SECRECY

Mr. JOHNSON of Texas. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from Executive F, 86th Congress, 2d session, a treaty of friendship and commerce between the United States of America and Pakistan, together with a protocol relating thereto, signed at Washington on November 12, 1959, and Executive G, 86th Congress, 2d session, a convention of establishment between the United States of America and France, together with a protocol and a joint declaration relating thereto, signed at Paris on November 25, 1959, and that the treaty and convention, together with the President's messages, be referred to the Committee on Foreign Relations, and that the President's messages be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, the injunction of secrecy will be removed, and the treaty and convention, together with the President's messages, will be referred to the Committee on Foreign Relations, and the messages from the President will be printed in the RECORD.

The messages from the President are as follows:

THE WHITE HOUSE, *April 6, 1960.*
To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith a treaty of friendship and commerce between the United States of America and Pakistan, together with a protocol relating thereto, signed at Washington on November 12, 1959.

I transmit also, for the information of the Senate, the report by the Secretary of State with respect to the treaty.

DWIGHT D. EISENHOWER.

(Enclosures: 1. Report of the Secretary of State. 2. Treaty of friendship and commerce, with protocol, signed at Washington November 12, 1959.

THE WHITE HOUSE, *April 6, 1960.*
To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith a convention of establishment between the United States of America and France, together with a protocol and a joint declaration relating thereto, signed at Paris on November 25, 1959.

I transmit also, for the information of the Secretary of State with respect to the Senate, the report of the Secretary of State with respect to the convention.

DWIGHT D. EISENHOWER.

(Enclosures: 1. Report of the Secretary of State. 2. Convention of establishment, with protocol and joint declaration, signed at Paris November 25, 1959.)

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

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

By Mr. WILEY:

Editorial entitled "Standstill at Geneva," published in the New York Times of April 5, 1960.

DEMOCRATIC PARTY REAL WINNER OF THE PRESIDENTIAL PRIMARY IN WISCONSIN

Mr. PROXMIRE. Mr. President, yesterday was a great day for the Democratic Party in the State of Wisconsin. I think the real winner of the presidential primary in Wisconsin was the Democratic Party.

The fact is that Wisconsin has been an overwhelmingly Republican State, for more than 50 years, in fact, throughout this century until 1958. The fact is that never before has the Democratic Party received nearly as many votes in Wisconsin, in a presidential primary, as has the Republican Party.

So I am happy to report that yesterday the Democratic Party received more than twice as many votes in the Democratic primary in Wisconsin as the Republican Party did—more than two-thirds of the primary votes. To be precise, Democrats won a handsome 71 percent of the total primary vote, and this was a huge record primary turnout.

Of course, it has to be recognized that the Democrats had a very vigorous contest in that primary, and the Republicans did not. At the same time, I think this should be evaluated in terms of what happened before. In 1954, when I ran for election as governor, I had a very vigorous contest against a man who was widely supported in the State. Very vigorous, all-out campaigns were conducted on both sides. The Republican candidate for governor had no opposition. Despite that fact, he received 60 percent of the primary vote, and we together received only 40 percent. Incidentally, I went on from the Democratic primary to come within 1 percent of winning the governorship.

In the past 6 years our party has grown most dramatically and decisively in Wisconsin.

Mr. President, there has been some talk to the effect that the Kennedy victory in Wisconsin was below expectations. I suppose there are some who expected the Senator from Massachusetts to win everything. But any time a man from Massachusetts can come into Wisconsin and can win by more than 100,000 votes—as a matter of fact, by more than 102,000 votes—and can win 6 of our 10 congressional districts, including districts which are predominantly rural, I think that is a very, very impressive showing particularly when KENNEDY's opponent is a vigorous and popular midwestern campaigner like HUBERT HUMPHREY.

At the same time, I believe it must also be recognized that the Senator from Minnesota [Mr. HUMPHREY] ran a gallant race against the No. 1 votegetter of the Democratic Party; and if we analyze the voting, I believe it is clear that the farmers of Wisconsin enthusiastically supported Senator HUMPHREY, who has been their great champion in the U.S. Senate. They recognize that, and they gave him a great tribute in the votes they cast yesterday.

I believe that Senator HUMPHREY's candidacy for the Presidency is still very much alive, because he ran a very strong race against the No. 1 votegetter of our party.

However, the real winner was the Democratic Party.

Mr. President, I yield the floor.

NEW ISSUE OF LONG-TERM GOVERNMENT BONDS

Mr. BUSH. Mr. President, the Treasury's decision to offer on the market, this week, its first long-term bond issue in nearly a year deserves commendation.

It was not unexpected. The Treasury has long made clear that whenever conditions in the Government securities market permit, it will undertake long-term financing at rates of 4¼ percent or less.

The recent decline in interest rates has now reached a point where an offering of a long-term bond issue has a chance to be successful. I am sure that all Senators hope it will succeed.

I anticipate, Mr. President, that some of my colleagues on the other side of the aisle will indulge in self-congratulation, pat themselves on the back, and seek to claim credit for the drop in interest rates which has permitted the Treasury to attempt a new long-term bond issue.

However, the recent decline in interest rates resulted, not from speeches on the Senate floor, but from an easing off in business conditions, resulting in a reduced demand for credit.

It will be argued, as it has been argued, that there is no longer any necessity to lift the 4¼ percent interest rate ceiling on Treasury obligations with maturities of more than 5 years.

It will be a dangerous gamble, Mr. President, to accept that argument. Interest rates can rise just as quickly as they fell.

As I have remarked before on the Senate floor, we have a new class of speculators on the Government bond market. They are the Senators who are gambling that business conditions will remain slack, thus reducing demands for credit and an easing of interest rates. These Senators are indulging in a dangerous speculation, involving people's savings and the credit and the security of the Nation. They may have to hang their heads in shame if business recovery, as seems likely, results in more demands for money and higher interest rates, which may again lock the Treasury out of the long-term bond market.

Increased business activity in the months ahead would certainly bring new demands for credit. If Congress fails to lift the interest rate ceiling on long-term bonds, it may find that it has again forced the Treasury into the short-term money market exclusively, with consequences as unfortunate as those which already have been experienced.

What have been those consequences? Because the Treasury was forced into the short-term money market, interest charges were increased for all Americans who had to borrow—for the worker who financed a new automobile, for the housewife who bought a refrigerator on consumer credit, and for the businessman who needed working capital to meet his payrolls.

Because the Treasury was forced into the short-term market, funds available for mortagage lending were depleted, with unfortunate effects upon homebuyers and the homebuilding industry.

It is significant that only recently the National Home Builders Association protested on this very issue, and recommended the enactment of legislation to remove the interest rate ceiling on bonds—action which previously had been taken by the Real Estate Association of America, the Lumber Dealers Association, and, of course, others.

Mr. President, the stubborn resistance against permitting the Treasury the freedom it needs to manage the huge national debt already has cost the American people millions of dollars, and has had damaging effects upon the entire economy. It may have contributed to the temporary interruption in the growth of the economy which we now witness. Thus, the proponents of growth at any price have placed a stumbling block in the path of growth.

Mr. President, I ask unanimous consent that an article by J. A. Livingston, which appeared in the Washington Post of March 30, and an article by Edwin L. Dale, Jr., which appeared in the New York Times of March 31, be printed in the RECORD following these remarks. Both these articles contain valuable information on the background of events which led to the decision of the Treasury which was announced last week.

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

[From the Washington Post, Mar. 30, 1960]

DISAPPOINTMENT FOR SMALL INVESTORS

(By J. A. Livingston)

Many small investors—people who didn't get Government magic 5s—will be disappointed this week.

The U.S. Treasury's new financing program won't contain anything as juicy as the 5s.

The rally in Government bonds since the first of the year has made possible the sale of Treasury issues near the 4¼ percent bond ceiling.

Therefore, the rates which will be offered won't be sufficiently higher than those for E-bonds or savings accounts to generate demand from purchasers in $1,000 to $5,000 lots.

Many persons are apt to credit the fight in Congress against raising the 4¼ percent ceiling for the drop in interest rates. There's no connection.

CREDIT DEMAND LESSENS

The facts are these: First, the high interest rates brought into the Government bond

market people who had never before bought Government bonds. A record 100,000 individual subscriptions were received for the magic 5s.

Second, the demand for credit at banks has not been as great this spring. Money has been easier than expected.

Third, the hesitation in business prompted fears of a recession. And, if a recession developed, the Federal Reserve Board would make credit easy. Therefore, speculation forced down money rates. And, the Federal Reserve, as a matter of precaution, let money and credit become looser.

Consequence: The 4¼ percent interest rate ceiling, which President Eisenhower asked Congress to remove, may not be an immediate bar to the sale of long-term bonds. A small issue—probably under a billion—might squeak through at or under 4¼ percent.

COULD BE IN BIND AGAIN

But this doesn't make the ceiling a virtue. Just the reverse. Interest rates can turn up as quickly as they turned down. Then the Treasury will be in the same bind again.

Congress should lift the ceiling—merely to give the President and the Secretary of the Treasury the "proper tools" to handle the $290 billion debt. Too much of the debt is short term; more ought to be pushed beyond 5 years.

Authority to sell bonds bearing a coupon above 4¼ percent is permissive, not mandatory. Raising the ceiling won't raise interest costs. If interest rates stay below 4¼ percent or go lower, then the Treasury will finance below the ceiling—like any prudent borrower.

A loophole bigger than Texas, Alaska, and the other 48 States make the 4¼ percent ceiling possible. The Treasury isn't permitted to sell bonds that mature in more than 5 years at a rate above 4¼ percent. Yet it is not limited on securities of less than 5 years. That made the magic 5s possible. They mature in 4 years and 10 months from date of issue.

AN ECONOMIC PARADOX

Thus, the ceiling has forced the Government into selling short-term securities. And this has had an unexpected repercussion. The National Association of Home Builders formally endorsed House bill 10590, which would empower the Secretary of the Treasury to sell bonds carrying coupons above 4¼ percent. Yet home builders like low interest rates.

Question: Why has the NAHB come to the aid of the Treasury? Wouldn't the sale of high-coupon bonds take money out of the mortgage market?

Answer: No. This is an economic paradox. Purchasers of E-bonds or depositors in savings institutions want rainy-day funds intact. They don't want to take risks from fluctuation in price.

The short maturity anchors the principal close to 100 cents on the dollar. This does not apply to long-term bonds. Example: The Treasury's 3s of 1995 rose from $790 a bond to more than $860 in 11 weeks. They can go down just as fast as they went up.

Homebuilders, therefore, want to clear the way for the Treasury to sell bonds. Bonds would not compete with the usual flow of funds to savings institutions. Savers would not be as well advised to buy 8-, 10-, or 12-year bonds as less than 5-year notes.

In any case, given a choice between 4 percent issues in Government securities, which fluctuate in price, and 3½ percent or 3¾ percent available through E-bonds or savings institutions, which can be withdrawn at 100 cents on the dollar, the small saver is better off with what he has been used to.

Thus, what the Treasury has to announce this week won't bring small investors running.

[From the New York Times, Apr. 1, 1960]

TREASURY TO SELL A 25-YEAR BOND—SETS INTEREST RATE AT LEGAL CEILING OF 4¼ PERCENT—AMOUNT OF OFFERING IS OPEN

(By Edwin L. Dale, Jr.)

WASHINGTON, March 31.—The Treasury announced today that it would put on the market next week its first long-term bond in nearly a year.

The bond will run for 25 years, but is callable after 15 years. It will have an interest rate of 4¼ percent, the legal ceiling that the Democratic-controlled Congress has refused to repeal or modify.

The ceiling has prevented sale of new long-term bonds for nearly a year because already outstanding bonds were selling in the market at prices that brought the buyer a return of more than 4¼ percent.

In the last month, however, Government bonds have gone up in price in the market, with the result that the interest yield has gone below 4¼ percent. Thus the Treasury now thinks it can sell at least some bonds within the ceiling.

It left the amount of the offering open—an unusual device—although it imposed a maximum of $1,500 million. In effect, the Treasury wants to test the market to see how much it will take in the way of long-term bonds at 4¼ percent.

The decision to offer the bond may diminish the Treasury's already-slim chances of inducing Congress to modify the ceiling, though the administration is still eager for the legislation.

Democrats are expected to argue, in effect, "I told you so," and to contend that their refusal to act has saved the taxpayers millions of dollars in interest payments.

The Treasury's view is that rates could easily rise once more making the ceiling again an obstacle to sale of bonds. Besides, officials said today that the change in market conditions had still not gone far enough to permit massive sales of long-term bonds.

In particular, the Treasury feels the ceiling still bars it from using the device of advance refunding of issues approaching their maturity date. This is the Treasury's main hope for getting the debt in the shape it wants. At present the debt is overconcentrated in short-term issues, in the Treasury's view.

Besides the bond, the Treasury will sell next week $2 billion of 2-year, 1-month notes bearing 4 percent interest. The two offerings will raise the cash the Treasury needs between now and June 30, the end of the fiscal year.

TAX REVENUES LAG

The day also brought these other major announcements.

Corporation tax revenues are running about $500 million below estimates for the current fiscal year. By itself, this would turn the estimated budget surplus of $200 million into a deficit. But spending, particularly on farm price support, also appears to be running behind estimates, and officials said the best guess now was that the budget would be almost exactly balanced.

The Treasury indicated that it might use a wholly new system for handling maturing issues. Instead of offering a new issue to holders of the old, it will on some occasions pay off the old issue and simultaneously sell a new issue or issues for each. This is an important technical change, one of whose purposes would be to curb harmful speculation.

Regardless of any possible adverse political consequences for the interest rate legislation, the Treasury was on record with a pledge that it would sell long-term bonds as soon as market conditions permitted. The recent improvement has been dramatic, for the typically slow moving bond market.

For example, in early February the 3¼ percent bond due in 1985 sold at a price of 83, $830 per $1,000 bond, meaning an actual yield of 4.35 percent to anyone who bought it in the market. This morning, those same bonds were quoted at 86⅝, to yield only 4.13 percent.

NEW BONDS "SWEETER"

The new bonds, with a 4¼ percent interest rate, thus are slightly "sweeter" than the going rate for existing bonds. This is the usual procedure, to make sure the new bonds sell.

Officials said they are counting on selling only about $500 million, and anything above that would be "gravy." The Treasury's actual need for cash is only $2,500,000 in total. With $2 billion to be raised from the 2-year notes, any sales of bonds above $500 million would provide extra cash.

The Treasury said it would use any extra cash acquired in that way to reduce slightly the amount of the regular weekly issues of 91-day bills.

While today's bond runs for 25 years, the Treasury can call it in and pay it off any time after 15 years. Thus, if interest rates are lower any time after 1975, the Treasury can save itself money by exercising the call.

Commercial banks buying the bonds can do so by simply crediting the Treasury's account—in effect, by creating the money. This is a privilege that helps the sale of new securities. The banks can "use" this money until the Treasury calls on it, and officials said today the money on this occasion would remain with the banks for an unusually long time.

Banks buying the new notes can use this money-creating privilege to the extent of 75 percent of their purchases.

MOVE COMES AS SURPRISE

Today's announcement of the new technique for handling maturing issues by selling replacement issues for cash came as a complete surprise. The next maturity is May 15, and officials would not commit themselves as to whether the new technique would be used.

A major reason for the new device is the painful experience of June 1958, when speculators bought huge quantities of an issue in a refunding with very small "margin" (cash downpayment). Shortly afterward the bond market went into a tailspin, and the overspeculation in this one issue was a cause of the steepness of the decline. Heavy losses were suffered.

This sort of speculation is possible only in a system whereby buyers can purchase with little cash the almost-matured issue—the so-called "rights" to the new issue. Under a system of paying off old issues in cash and simultaneously selling new ones for cash, the Treasury can require cash downpayments on the new issue.

Officials listed several other advantages for the new technique.

In the case of refundings including a choice of two or more new issues, it lets the Treasury decide the exact amount of each issue that will be sold.

It permits the Treasury to make preferential allotments to various types of investors, if it wishes to do so.

For various technical bookkeeping and tax reasons, the new system would make it possible for certain types of investors, such as State retirement funds, to participate in refundings where they cannot or will not do so now. Thus the market would be broadened.

Finally, the Treasury—which is always able to sell new issues for cash—would always know that it could refund the whole amount of a maturing issue. There would be no "attrition"—the refusal of some holders of an old issue to take the new one because they prefer to be paid in cash.

DEFENSE SPENDING

Mr. BUSH. Mr. President, as a member of both the Joint Economic Committee and the Armed Services Committee, I have listened with great interest to the speeches that have been made by various Senators, including presidental nominee aspirants, warning of the dangerous state of the Nation's defense and, in some instances, urging that more be spent for defense.

There seems to be a mistaken idea prevalent that simply by spending more money, we get more defense; that by increasing an appropriation, we get more and better missiles.

It seems to me that we should, first of all, determine that we are getting dollar value for what is already being spent. I have not heard any speeches urging that we take a long, hard look at the $41 billion defense budget to see where there is budgetary fat that could be cut without taking a dollar from funds earmarked for military hardware.

I feel that the recent hearings before the Defense Procurement Subcommittee of the Joint Economic Committee on "The Impact of Defense Procurement" and the excellent staff report published subsequent thereto have provided the answer as to whether we are getting dollar value and where there is budgetary fat that can be cut.

This commmittee has taken a look at this situation not just from the limited area of concern of the several legislative committees, but on a much broader scope which recognizes the impact of this massive part of our Federal budget on our industrial resources and our national economy per se.

These hearings have shown clearly that there continues to be wasteful duplication by the Armed Forces in procurement and related supply functions.

This staff report gives, I believe for the first time, the complete background of frustrated efforts by Congress to achieve unification in this area with resulting economy and efficiency.

I strongly urge each of my colleagues in the Senate, and those in the House, too, to read particularly the 10 pages of part V of this report, "What to do about unification of common-use supplies and services."

The Washington Daily News on March 21, 1960, published a thought-provoking editorial on this subject, in which it pointed out that the Armed Forces continue to resist all efforts to control this most wasteful business.

I ask unanimous consent to have printed in the RECORD the editorial entitled "Surface Only Scratched," which appeared in the Washington Daily News of March 21, 1960, and also an editorial, entitled "Fat in the Defense Budget," which was published in the Washington Evening Star of February 4, 1960.

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

[From the Washington Daily News, Mar. 21, 1960]

SURFACE ONLY SCRATCHED

For sheer size, there is no business to match our armed services. In buying, supplies on hand, and surplus disposal, a congressional committee reports, the Defense Department is "without parallel." It is also, the report proceeds to make plain, the most wasteful business.

Consider the magnitude: National Defense spending now is 3½ times greater than in 1950. The annual cost is near $47 billion—9 percent of the total business of everybody in the United States.

For years, Congress, top Government officials, and others—such as the Hoover Commission—have been trying to get the Armed Forces to pool their buying on so-called common use items—of which more than 1.8 million have been cataloged. The late Defense Secretary James Forrestal practically made a career of this effort.

The new report of the Joint Subcommittee on Defense Procurement says:

"But efforts to date have only scratched the surface."

Just making up a list of all the things the services buy cost $200 million—but even with this list, less than a sixth of the common use items have been standardized for purchasing purposes.

As a result, the armed services now have surplus supplies costing $26.7 billion. The job of disposing of this excess material is so staggering the Defense Department estimates it will take 3 years—and more surplus is accumulating all the time.

"The net return to the Government on surplus disposal sales," says the subcommittee, "is less than 2 percent of the acquisition cost."

Billions of taxpayer dollars are simply vanishing.

This is bureaucracy in action—a bureaucracy so vast, so glued to its ways and so cumbersome that it is able to resist all efforts to control it. Congress, a succession of Defense secretaries, the Hoover Commission—all have tried—in vain.

Despite this sorry record, we believe this problem can be licked if some military heads are bashed together and firm orders issued.

[From the Washington Star, Feb. 4, 1960]

FAT IN THE DEFENSE BUDGET

Testimony before the Joint Economic Committee of Congress has made it clear that millions, or even billions, can be cut from the Nation's defense bill—without taking a dollar from funds earmarked for missiles or other military hardware. In fact, the money saved by elimination of budgetary fat might well be used to buy more military strength.

We refer to disclosures of continued wasteful duplication of services in the logistical field by the various Armed Forces. According to competent witnesses before the committee, the defense agencies have made little progress in eliminating duplication and overlapping of many supply and related services since the Hoover Commission called for centralization of procurement and supply activities. It has been estimated by members of the Hoover Commission that some $2 billion might be saved the taxpayers by centralization.

Comptroller General Joseph Campbell cited to the committee a number of glaring examples of blind buying and selling by military departments that, but for action by his office, would have cost the Government millions of dollars. "In one case," he said, "we found that during the same period one service had a long supply and excess of aircraft engines and accessory parts available for interservice use, while another service was placing orders for identical items." In another case the Army planned to buy helicopter parts from private industry, although the Air Force had more than $6 million worth of the same items left over from a reduced program.

One of the persuasive critics of military waste was Perry M. Shoemaker, railroad president and vice chairman of the committee of Hoover Commission Task Force members. He pointed out that although Congress has authorized the Defense Department to integrate supply functions, as recommended by the Hoover Commission, military officials seem reluctant to use the authority. Their only move so far, the committee was told, has been to set up a single manager system for procurement of a few items used in common by the three services. Under this system one branch will purchase food or clothing or fuel or medical supplies for the other branches—but without information as to present stocks, usage rates, or other important details. Richard Newman, a staff member of the congressional committee, stressed that the particular service doing the buying "cannot evaluate requests or take steps to redistribute excess stocks and reduce inventory investments."

Defense officials pointed to the single manager system as proof of their concern over waste and their desire to cooperate in reducing overlapping of housekeeping activities. But Mr. Shoemaker and other witnesses declared that this was only a first step, a temporary expedient that is not a real substitute for a permanent centralization of purchasing and distribution functions in the Defense Department. And if, as the Hoover task force of outstanding businessman and other specialists has asserted, billions of defense dollars are being wasted through uncoordinated procurement and supply management, it is time to put military buying on a businesslike basis and use the savings to build up our lagging weapons arsenal.

ADDITIONAL LIST OF REPUBLICAN WOMEN FROM WISCONSIN ATTENDING THE REPUBLICAN WOMEN'S CONFERENCE IN WASHINGTON

Mr. WILEY. Mr. President, it has come to my attention that the following ladies were not included on the list of Republican women from the State of Wisconsin attending the Republican Women's Conference in Washington this week as appears in the April 4 CONGRESSIONAL RECORD. I ask unanimous consent to correct this inadvertence by listing the additional names.

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

Mrs. Wesley Canfield, Potosi, Wis.
Miss M. Ethel Utt, Lancaster, Wis.
Mrs. Charles J. Becker, West Milwaukee, Wis.
Mrs. Immo Heckel, Milwaukee, Wis.
Mrs. Harold Austin, Lancaster, Wis.
Mrs. Willis Hutnik, Ladysmith, Wis.
Mrs. O. B. Johnson, Ladysmith, Wis.

The PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

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

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

The Chief Clerk proceeded to call the roll.

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

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

INTERNATIONAL TARIFF CONFERENCE AT GENEVA

Mr. DWORSHAK. Mr. President, I was shocked to read the United Press

International news dispatch stating that the State Department wants $900,000 to send delegates to an International Tariff Conference at Geneva and to hire chauffeurs to drive them around. The dispatch also added that the United States plans to send 138 experts and staff members, mostly from Government agencies, and hire 13 staffers at Geneva to attend a conference beginning September 1, 1960, aimed at lowering tariffs among 37 participating nations, which is expected to last a year or more. The article published today stated that the State Department has asked a House Appropriations Subcommittee for $900,000 to cover the 151 persons' expenses through June 30, 1961. This proposed budget included $26,320 to buy four cars and hire chauffeurs for them; $20,270 to ship 300 pounds of baggage apiece for 115 delegates; and $8,000 for entertainment of other delegations.

Mr. President, in view of the fact that the United States has had an unfavorable balance annually in 1958 and in 1959 of about $4 billion; and, with our gold reserves constantly dwindling, I have compiled some information on this apparent effort to insure final interment for American business and industry. I deplore very much that our State Department is so utterly unaware of the fact that we have been pricing ourselves out of world markets, and that obviously, this proposal will totally destroy American industry, with resultant widespread unemployment.

A copy of the hearings before the subcommittee of the House Appropriations Committee on the budget for the Department of State contains some information which should be presented to the Senate so that there will be an opportunity to make protests to this proposal for international tariff negotiations. On Thursday, February 25, 1960, Mr. Horace E. Henderson, Deputy Assistant Secretary for International Organization Affairs, testified that the State Department is requesting an appropriation of $900,000 to support the U.S. participation during fiscal year 1961 in the fifth round of international tariff negotiations.

Mr. President, it is timely to point out that the General Agreements on Tariffs and Trade, which is the sponsoring body for these international negotiations, has never been officially approved by the Congress, and thus has a questionable status insofar as international agreements are concerned.

Mr. Henderson testified:

> There have been four general rounds of multilateral tariff negotiations whose results have been embodied in tariff schedules forming a part of GATT: Geneva (1947); Annecy, France (1949); Torquay, England (1950–51); and Geneva (1956). Tariff concessions granted by GATT countries to one another in these negotiations cover some 60,000 items and $40-billion worth of trade annually.

Mr. Henderson testified that preparations for U.S. participation in the forthcoming conference were begun more than a year ago by the Inter-Agency Trade Agreements Organization. He emphasized that "the aim of the United States will be to bring about a lowering of tariffs by all participating countries, which will benefit the U.S. economy and contribute to the expansion of mutually beneficial world trade." He also testified that "the forthcoming round of international tariff negotiations will begin in Geneva, Switzerland, beginning September 1, 1960, and will last a year or more."

Mr. President, it is difficult to justify Mr. Henderson's testimony that the appropriation for $900,000 will enable the United States to take a positive and active part in this forum with a view to expanding and promoting world trade.

When claims are made that these international GATT conferences promote beneficial trade results for the United States, it is interesting to point out that our exports are decreasing and our imports are increasing. It is a debatable question whether there are any advantages for the United States involved in these international negotiations, which have become a farce. All we have to do is to examine the record, which indicates that in 1958 and in 1959 the United States lost about $4 billion because of changes in foreign holdings of gold and dollars through transactions with the United States.

It is interesting to note that in the past decade there has been a constant decline in the unfavorable payment balances which this country has had.

Mr. President, does it mean that the State Department, through these international conferences, should continue to bargain away tariff advantages which have built up in the past our U.S. economy to a commanding position of leadership? Does it mean that we must continue to give concessions to foreign countries which will enable them to flood our markets with commodities which might advantageously be produced by American labor? Does it mean that we must submit to an imposition of fantastic and indefensible concessions which will weaken our economic structure and seriously jeopardize the ability of the United States to provide leadership so vitally necessary to the free world?

Mr. President, I am making these brief remarks to alert the Senate and the Appropriations Committtee to the submission of this budget by the State Department with a total of $900,000, of which personal services will amount to $228,200; and travel will amount to $605,000. It is proposed to make provision for 30 round trips between Geneva and Washington for members of the delegation who may be required to return to Washington for consultation.

The testimony before the House Committee also indicated that the last GATT conference was held in Geneva in 1956 and that its budget amounted to $265,000. Mr. President, this is quite insignificant when it is compared with the $900,000 which is now being requested for a similar conference. It is also pertinent to note that Mr. Henderson said:

> We are not paying the salaries of any members of the delegation other than those in the Department of State. The other agencies are providing the salary costs of the personnel that they are providing for the delegation.

The State Department will provide only 37 of the 151 personnel.

Mr. President, this simply means that far in excess of $1 million will probably be expended by our Government to send a delegation to a Geneva Conference to bargain away what little security remains for American business and industry.

Mr. President, I shall not take more time to explain some of the details of this nightmarish proposal of the State Department. It is timely to observe that this country is facing the most serious challenge in its history to meet the influx of commodities and manufactured products originating in countries with wage levels far below those prevailing in the United States.

We are constantly given reassurances that the Trade Agreement Act and the International Negotiations under GATT are a real advantage to our country. However, every segment of agriculture and industry has been adversely affected by our competition from low-cost producing countries. How much longer can we continue to isolate ourselves from competitive world trade and permit the State Department to misrepresent the interests of our people?

Mr. President, I have abiding faith that this Congress, through its Appropriations Committee, will not be duped by this preposterous proposal to approve a program which has never received congressional sanction to continue its depredations on our American way of life. Elected representatives of the people have certain responsibilities, while the 151 persons who would be delegated under this budget proposal to represent this country at Geneva would not be accountable in any way because they would hold nonelective positions. It is most unfortunate that the President and the Secretary of State do not restrict the activities which are proposed under GATT far transcending any authorized jurisdiction given by the Congress for such tariff-cutting negotiations.

CIVIL RIGHTS ACT OF 1960

The PRESIDENT pro tempore. The Chair lays before the Senate the unfinished business.

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

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

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

The Chief Clerk proceeded to call the roll.

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

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

RACE PROBLEMS

Mr. JOHNSTON of South Carolina. Mr. President, there appeared in the April 11 issue of U.S. News & World Report an article entitled "How One Northern City Handles Its Race Problem." In

this article, a report datelined from Philadelphia, Pa., the U.S. News & World Report's reporter brings to light the fact that this northern city, where one of every four residents is a Negro, has just recently gone through one of the most frightful experiences in its modern history.

The article states that only "swift and stern action" by the local authorities prevented "the dread of a major racial explosion."

The article tells of death and brutal beatings carried out by Negro and white groups in this City of Brotherly Love. The article answers the question, "How did Philadelphia react to this crisis?" by telling how hundreds of police were put on round-the-clock patrols, how hundreds of police leaves were canceled, and how hundreds of police were rushed into the trouble area. The article also pointed out how police stopped cars and how scores of troublemakers, white and Negro, were arrested.

The article sums up the situation in Philadelphia by quoting the police commissioner, Thomas J. Gibbons, who said:

After every day that ends without a serious bit of trouble, we breathe a sigh of relief.

Mr. President, I commend the U.S. News & World Report for going to Philadelphia and reporting the situation there for the benefit of the Nation. While this situation existed in Philadelphia, there was no report of it, to my knowledge, in the northern and liberal newspapers. Certainly if there were reports of these troubles in Philadelphia, they were not given prominence in the northern liberal papers, but were probably buried in the classified sections of these papers.

No, Mr. President, the northern liberal newspapers did not report in huge headlines anything of the Philadelphia situation. They were too busily engaged in brandishing headlines of sit-down demonstrations in the Southern States, and too busy writing editorials encouraging violence in the South, and too busy criticizing the way in which the South African Government handled a race riot in that country.

It is strange to me that the State Department and the northern liberal press had the nerve to criticize South African police for shooting at a mob of 20,000 people who were attacking 25 policemen in a building, yet did not have time to make criticism of the situation in American cities such as Philadelphia where hundreds of extra police have had to be put on round-the-clock shifts, where they are arresting scores of people, halting automobiles, and searching hundreds of people. This is what is happening in Philadelphia, the City of Brotherly Love, while the National Association for the Advancement of Colored People is busily encouraging more violence in the South. If the NAACP, the State Department, and the northern liberal newspapers were interested in preserving peace, they would lend their weight and support to efforts to halt killings, beatings, and robbings in the large northern cities before they would worry about forcing a private businessman in the South to destroy his business by forcing integration upon people who do not wish to integrate—both white and colored. I believe I can speak for both races in my State.

Mr. President, again I commend the editor of the U.S. News & World Report for its frank report of conditions in Philadelphia, which, no doubt, exist in many other large northern cities where integration has become the forced law of the land against people's will. I ask unanimous consent that this article be printed in the RECORD immediately following my remarks.

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

HOW ONE NORTHERN CITY HANDLES ITS RACE PROBLEM

PHILADELPHIA.—This northern city—where one of every four residents is a Negro—has just gone through the frightening experience of living from day to day in dread of a major racial explosion.

Only swift and stern action to head off outbreaks of violence, city officials believe, averted serious clashes in areas where Negro and white neighborhoods meet.

Even so, a rash of racial incidents during the closing days of March kept police and community leaders in a state of constant alert—never knowing when big trouble might develop.

DEATH OF A SCHOOLBOY

Philadelphia's big scare was touched off by the fatal stabbing on March 21 of 17-year-old John A. Campiglia, Jr., a white student at the integrated South Philadelphia High School. The Campiglia boy, walking home alone from school in daylight was attacked and beaten with fists and chains by 11 Negro teenagers—some of them fellow students—before one of the group knifed him.

The killing, called brutal and senseless by Police Commissioner Thomas J. Gibbons, occurred 4 days after two of the Negroes in the attacking gang had been beaten by white teenagers.

Tension gripped the city. Normal community activities in some mixed neighborhoods all but ceased. School attendance in those areas fell off sharply.

A cross was burned in front of a Negro-owned home. A group of white youths attacked five young Negro couples. Negro youths waylaid and beat up a white man. A 12-year-old Negro girl was wounded by shotgun pellets fired by youths in a passing car.

How did Philadelphia react to this crisis? Here's what happened when one more northern city came face to face with racial tensions that are spreading through the big cities:

THREE'S A CROWD

Police leaves were canceled as hundreds of extra patrolmen were rushed into the south Philadelphia area for round-the-clock patrols. Teenagers in groups of more than two were searched for weapons and dispersed. Cars were stopped and searched. Scores of troublemakers—white and Negro—were arrested.

Top officials of 70 civic and religious organizations—white and Negro—met in an emergency session and issued an appeal for an end to violence. Fieldworkers from youth groups poured into the troubled areas to urge restraint on both sides and cooperation with the police.

By April 1, calm appeared to have returned to this troubled city.

A PHENOMENAL JOB

Maurice B. Fagan, executive director of the Fellowship Commission, says the police and community groups "have done a phenomenal job in keeping the peace as well as we do" in view of the city's racial tensions.

A steady decline in the number of racial incidents for the last 2 years until the recent outbreaks is reported by George Schermer, executive director of the Commission on Human Relations. Mr. Schermer calls for a greater effort to cope with emotional and character problems of kids that come from homes where training is less than adequate.

Nochem S. Winnet, head of the Crime Prevention Association, calls for fuller reporting of racial incidents in the city's press as a means of alerting the public to the need for more effort in trying to solve the city's problems.

Newspaper and police officials reply that all such incidents are reported on their merit and that there is no conspiracy of silence.

A CHANGING CITY

As more and more Negroes move into Philadelphia from the South, and white residents move out to the suburbs, the city's problems with crime, juvenile delinquency, and rising welfare costs continue to mount.

Says Police Commissioner Gibbons: "After every day that ends without a serious bit of trouble, we breathe a sigh of relief."

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

Mr. JOHNSTON of South Carolina. I yield.

Mr. RUSSELL. Does the Senator know of any southern city with a percentage of Negro population as high as in Philadelphia in which conditions exist such as he has described?

Mr. JOHNSTON of South Carolina. I do not know of any condition like that existing in a southern city where the colored population is as high as it is in Philadelphia.

Mr. RUSSELL. The condition the Senator describes undoubtedly flows in large measure from the complete and indiscriminate mixing and integration of the races by the force of State law.

Mr. JOHNSTON of South Carolina. That is correct.

Mr. RUSSELL. The Senator, of course, is describing a condition which we are desperately striving to prevent from being forced on the people of the South, whom we have the honor to represent.

Mr. JOHNSTON of South Carolina. I agree with the Senator from Georgia that that is what we are doing at the present time.

We know that whenever integration is forced on people against their will we find this kind of trouble developing. This is the sort of thing that will result from forced integration.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Louisiana [Mr. ELLENDER] to strike out title VI of the bill.

Mr. ERVIN. Mr. President, I call up my amendment identified as "3-31-60-F," and ask for its immediate consideration.

The PRESIDENT pro tempore. The amendment will be stated.

The CHIEF CLERK. On page 20, after line 25, it is proposed to insert a new paragraph as follows:

The provisions of this subsection shall apply only to an election at which a candidate for the Senate of the United States or for the House of Representatives of the

United States or for Resident Commissioner of Puerto Rico is voted for, and the words "election" or "elections" as used in this subsection shall be construed accordingly.

The PRESIDENT pro tempore. This is a perfecting amendment.

Mr. JOHNSON of Texas. Mr. President, how long does the Senator from North Carolina expect to discuss his amendment?

Mr. ERVIN. I would want about 10 minutes, so far as I am concerned.

Mr. JOHNSON of Texas. I ask unanimous consent that I may yield 10 minutes to the Senator from North Carolina to discuss the amendment.

Mr. ERVIN. Mr. President, the Founding Fathers were wise men. They knew the history of the experiences of the colonies. They knew from that history that the 13 colonies had suffered much at the hands of a government far removed from the people. Therefore, when they came to draft and ratify the Constitution of the United States, they adopted a system of Federal Government by which they committed to the National Government the power necessary to enable it to function as a national government, and by which they reserved to the States the right to manage their own internal affairs.

I think the best explanation ever made in brief compass of the fundamental objectives of the Constitution of the United States is that which appears in the celebrated case of Texas against White, which is reported in 7 Wallace, pages 700 to 743. I wish to read that portion of the opinion of Chief Justice Salmon P. Chase which appears on page 725:

> But the perpetuity and indissolubility of the Union, by no means implies the loss of distinct and individual existence, or of the right of self-government by the States. Under the Articles of Confederation each State retained its sovereignty, freedom, and independence, and every power, jurisdiction, and right not expressly delegated to the United States. Under the Constitution, though the powers of the States were much restricted, still, all powers not delegated to the United States, nor prohibited to the States, are reserved to the States respectively, or to the people.
>
> And we have already had occasion to remark at this term, that "the people of each State compose a State, having its own government, and endowed with all the functions essential to separate and independent existence," and that "without the States in Union, there could be no such political body as the United States." Not only, therefore, can there be no loss of separate and independent autonomy to the States, through their Union under the Constitution, but it may be not unreasonably said that the preservation of the States, and the maintenance of their governments, are as much within the design and care of the Constitution as the preservation of the Union and the maintenance of the National Government. The Constitution, in all its provisions, looks to an indestructible Union, composed of indestructible States.

Mr. President, we stand today at one of the most crucial points in our history. This is true because the bill before the Senate, and especially the part of it which undertakes to deal with voting rights, provides a test for Congress. Does Congress desire to destroy the States of the Union? Does Congress believe we should have a centralized government, and that a Union composed of indestructible States shall cease to exist? That is the issue which confronts Congress at this time. It is especially emphasized by the provisions of the bill which undertake to confer upon the Federal Government the power to pass upon the qualifications of those who are to vote in State elections.

Mr. President, there are two separate sets of constitutional principles governing what may be called congressional elections, on the one hand, and State and local elections, on the other. The provisions of the Constitution which relate to congressional elections are sections 2 and 4 of article I, and the 17th amendment. Section 2 of article I reads as follows, insofar as it is pertinent to the present discussion:

> 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.

Section 4 of article I provides:

> The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

The 17th amendment, so far as it is pertinent to the present discussion, reads as follows:

> The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for 6 years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

These three provisions deal with the election of Senators and Representatives, who are elective officers of the United States. In "The Federalist," where the purposes of the Constitution are outlined in the clearest manner, it it stated that the provision of section 4, article I, providing that "Congress may at any time by law make or alter such regulations"—that is, regulations prescribed by the States as to "the times, places, and manner of holding elections for Senators and Representatives"—was intended to be made effective only in cases where the State failed to make any provision of the election of Members of Congress.

The Constitution was designed to establish an indestructible Union composed of indestructible States. So the Constitution was always interpreted, until the 15th amendment, to mean that the States should have the sole power to regulate all State and local elections.

Furthermore, both the 2d section of the 1st article and the 17th amendment provide in express words that even the qualifications of those who were to vote for Senators and Representatives are to be prescribed by the States. These two constitutional provisions do that by providing that persons shall be eligible to vote for Senators and Representatives only if they possess the qualifications prescribed by State law for electors of the most numerous branch of the State legislatures.

Mr. STENNIS. Mr. President, will the Senator from North Carolina yield for a question?

Mr. ERVIN. I am glad to yield.

Mr. STENNIS. Mr. President, I call on the Senator from North Carolina to point out what section of the Constitution if any gives the Congress the authority to invest the courts with positive power to register voters and, more especially, to supervise either State or local elections. What grant of power does the Congress have in that respect?

Mr. ERVIN. The courts of the land have held that prior to the ratification of the 15th amendment, the Federal Government had no power whatever to do anything of any character whatsoever in respect to any State or local election.

When the 15th amendment was ratified, it inserted in the Constitution the following new provision:

> ARTICLE XV
>
> SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

The courts have quite properly held that the only power Congress has over State or local elections is the power to see to it that the States observe the prohibition placed upon them by the 15th amendment; and that prohibition is merely that no State shall deny or abridge the right of any citizen of the United States to vote on account of race, color, or previous condition of servitude.

Mr. STENNIS. Have the courts ever read into the constitutional provision an affirmative power or positive power of the Congress to give the courts the responsibility and authority to supervise elections and register voters?

Mr. ERVIN. I have searched for a decision to that effect; and I assert that there is no decision whatsoever which states that Congress has a right to do anything affirmative in that connection. But, on the contrary, all the decisions say that the only appropriate legislation which Congress can pass under the 2d section of the 15th amendment, to enforce the 15th amendment, is legislation which is designed to enforce the prohibition it contains. The 15th amendment does not grant to Congress any affirmative power whatever. And in decisions of the Supreme Court of the United States, construing the 5th section of the 14th amendment, which is similar to the 2d section of the 15th amendment, the Court has held that the obligation to refrain from discrimination rests upon the States, and that the enforcement of that obligation cannot be assumed by the Federal Government, except by way of enforcement of the prohibition.

Mr. STENNIS. I thank the Senator from North Carolina. He is a very able lawyer, and formerly he was a judge of the supreme court of North Carolina. He has made that search of the decisions and of the authorities. During the course of this entire debate has the Senator from North Carolina heard, or heard of, any proponent of this legislation who has

come here and has pointed out any authorities to the contrary of what the Senator from North Carolina has asserted?

Mr. ERVIN. No authority to the contrary has been cited by anyone. Even when the Attorney General of the United States appeared before our committee and I undertook to make inquiry of him concerning that matter, he had to content himself with the assertion that he believed this measure to be constitutional.

Mr. STENNIS. I thank the Senator from North Carolina.

Mr. ERVIN. I should like to say to the Senator from Mississippi that if the voting provisions——

The PRESIDENT pro tempore. The time yielded to the Senator from North Carolina has expired.

Mr. ERVIN. Mr. President, I should like to have 5 minutes more, if I may.

Mr. JOHNSON of Texas. Mr. President, I yield 5 additional minutes to the Senator from North Carolina.

The PRESIDENT pro tempore. The Senator from North Carolina is recognized for 5 additional minutes.

Mr. ERVIN. Mr. President, as I was about to say to the Senator from Mississippi, I wish to state that if the voting provisions of this bill, in which it is stipulated that the Federal Government for the first time shall undertake to pass upon the qualifications of those who vote in State and local elections, are held constitutional by the Supreme Court of the United States, then I say in solemnity that the American people will have lost the protection of their written Constitution. This is true because such a decision could not possibly be made without nullifying the express provisions of the Constitution of the United States.

Mr. STENNIS. And then the States will have lost their identity to the Federal Government, will they not?

Mr. ERVIN. That is true. I thank the Senator from Mississippi for his contributions to this debate.

Mr. JOHNSTON of South Carolina. Mr. President, will the Senator from North Carolina yield to me?

Mr. ERVIN. I yield.

Mr. JOHNSTON of South Carolina. Has anyone been able to find in the Constitution any provision which gives the Federal Government the right to go into State or local elections?

Mr. ERVIN. Not one syllable of the Constitution would justify such a course of conduct on the part of the Federal Government.

Mr. JOHNSTON of South Carolina. Therefore, if such a provision is not contained in the Constitution of the United States, we must bear in mind that article X of the Constitution 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.

So that provision prohibits the Federal Government from regulating primary or other State or local elections; is not that true?

Mr. ERVIN. There is no doubt about that fact.

Mr. JOHNSTON of South Carolina. The proponents of this bill claim authority for it under what is known as the 15th amendment of the Constitution, which reads as follows:

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

But have they pointed out in what respect the provisions of this bill in regard to voting qualifications or the management of elections have anything to do with the right of a person to vote or not to vote?

Mr. ERVIN. The answer to that question is self-evident. The courts have held that the Congress has no power whatever to do anything in respect to State and local elections except under the 15th amendment, and that the Congress does not have any right to do anything under the 15th amendment except to enforce the prohibition that no citizen of the United States shall have his right to vote abridged or denied by a State on account of race, color, or previous condition of servitude.

Mr. JOHNSTON of South Carolina. In other words, that amendment, stated simply, means that citizens shall not be discriminated against in that way when they come to vote.

But does not the Senator from North Carolina agree that nothing in the Constitution gives the Federal Government the right to set up specifications in regard to the conduct of elections, and so forth?

Mr. ERVIN. Nothing in the Constitution provides the Federal Government with such a power. Indeed, it is highly doubtful whether the Federal Government could take any positive step looking to passing on the qualifications of voters preliminary to registration, even in elections for Senators and Members of the House of Representatives, under the fourth section of the first article of the Constitution. All that is authorized by it to be done by Congress in respect to congressional elections is to alter the regulations prescribed by the States with respect to the times, places, and manner of holding such elections. It is certainly true that the fixing of the times and places of holding such elections has nothing to do with the registration of voters. Moreover, the words the "manner of holding election" imply the existence of a body of voters whose qualifications have already been determined. This view harmonizes with the definitions which have been given to those words. They have often been construed to refer simply to receiving, and counting votes and certifying election returns.

But, Mr. President, even if it were constitutional for the Congress of the United States to enact a law conferring upon the Federal Government the power to pass upon the qualifications of voters in State or local elections, it would be extremely unwise for Congress to enact any such law. This is true because whenever government is far removed from the people, government becomes the master of the people, not their servant. I have always found it easier to deal with the government of North Carolina, than it is to deal with the Government of the United States. I have found that those who exercise the authority of State government are approachable persons who assume that the States' citizens are people of character, and merit a hearing. But I have found exactly the opposite situation in many cases in respect to those who exercise bureaucratic power under the Federal Government. For these reasons, it is wise to keep government close to the people.

A certain way to destroy liberty in America is to remove Government far from the people and concentrate it in Washington. And a certain way to do that is to confer on the Federal Government the power to determine who is to vote in State elections.

The PRESIDING OFFICER (Mr. TALMADGE in the chair). The time of the Senator from North Carolina has expired.

Mr. JOHNSON of Texas. Mr. President, how much time does the Senator desire?

Mr. ERVIN. One minute.

Mr. JOHNSON of Texas. I yield 2 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from Texas yields 2 minutes to the Senator from North Carolina.

Mr. ERVIN. The question which confronts the Congress of the United States at this time is this: Shall the indestructible Union composed of indestructible States cease to exist? Shall we substitute for that kind of a Union a centralized government in which the States are deprived of the power to conduct their own elections? The question is a solemn question, because, in the last analysis, it comes to this: Are the Members of the Senate and the Members of the House, willing to sell the birthright of the American people, for a sorry mess of political pottage, in order to pacify, in order to appease, a few organizations which, in their blind zeal, are willing to emulate the example of Samson and tear down the pillars which support our system of constitutional government?

That is the issue—no more, and no less—and it is time for those who believe we have the finest governmental system on earth to stand up and be counted, not only for this generation, but for the generations yet to come.

Mr. STENNIS. Mr. President, may I commend the Senator from North Carolina——

The PRESIDING OFFICER. Does the Senator from Texas yield to the Senator from Mississippi?

Mr. JOHNSON of Texas. I yield the Senator from Mississippi such time as he may need.

The PRESIDING OFFICER. The Senator from Texas yields to the Senator from Mississippi such time as he may need.

Mr. STENNIS. I merely wanted to commend the Senator from North Carolina for his speech. Even though it has been a short one, it has been sound, based on the governmental philosophy of America.

The PRESIDING OFFICER. The question is on agreeing to the Ervin amendment as a perfecting amendment.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum, without losing the floor.

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

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 155]

Aiken	Fong	McNamara
Allott	Frear	Magnuson
Anderson	Fulbright	Monroney
Bartlett	Gore	Morse
Beall	Green	Morton
Bible	Gruening	Moss
Bridges	Hart	Mundt
Brunsdale	Hartke	Murray
Bush	Hayden	Muskie
Butler	Hennings	Prouty
Byrd, Va.	Hickenlooper	Proxmire
Byrd, W. Va.	Hill	Randolph
Cannon	Holland	Robertson
Capehart	Hruska	Russell
Carlson	Jackson	Saltonstall
Carroll	Javits	Schoeppel
Case, N.J.	Johnson, Tex.	Scott
Case, S. Dak.	Johnston, S.C.	Smith
Chavez	Jordan	Sparkman
Church	Keating	Stennis
Clark	Kefauver	Symington
Cooper	Kerr	Talmadge
Cotton	Kuchel	Thurmond
Curtis	Lausche	Wiley
Dirksen	Long, Hawaii	Williams, Del.
Douglas	Long, La.	Williams, N.J.
Dworshak	Lusk	Yarborough
Eastland	McCarthy	Young, N. Dak.
Engle	McClellan	Young, Ohio
Ervin	McGee	

Mr. JOHNSON of Texas. I announce that the Senator from Louisiana [Mr. ELLENDER], the Senator from Montana [Mr. MANSFIELD], the Senator from Rhode Island [Mr. PASTORE], and the Senator from Florida [Mr. SMATHERS] are absent on official business.

I also announce that the Senator from Connecticut [Mr. DODD] is absent because of illness.

I further announce that the Senator from Minnesota [Mr. HUMPHREY], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Wyoming [Mr. O'MAHONEY] are necessarily absent.

Mr. KUCHEL. I announce that the Senator from Utah [Mr. BENNETT], the Senator from Arizona [Mr. GOLDWATER], and the Senator from Iowa [Mr. MARTIN] are detained on official business.

The PRESIDING OFFICER (Mr. TALMADGE in the chair). A quorum is present.

Mr. JOHNSON of Texas. Mr. President, if any Senator desires time to discuss the Ervin amendment, before I yield the floor, I will be glad to yield time. Otherwise the distinguished acting minority leader will move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. The question is on agreeing to the perfecting amendment offered by the Senator from North Carolina [Mr. ERVIN].

Mr. KUCHEL. Mr. President, on behalf of the minority leader, as well as on my own, I intend now to move to lay the pending amendment on the table. I wish to repeat what the distinguished majority leader has said. Does any Senator desire to speak on the amendment?

Mr. CASE of South Dakota. Mr. President, will the Senator yield me 2 minutes?

Mr. KUCHEL. I ask unanimous consent that I may yield 2 minutes to the Senator from South Dakota without my losing the floor.

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

Mr. CASE of South Dakota. Mr. President, the junior Senator from South Dakota merely wishes to take this opportunity to point out what for him is the deciding issue on the pending bill. The amendment would strike from the bill language making the right to vote applicable to all elections, and would limit the bill to voting for candidates for Congress.

I point out that the 15th amendment deals with the abridgment of the right to vote on certain grounds. The 15th amendment reads:

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

Section 2 reads:

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

If the right to vote is abridged, or if the court finds it to be abridged by reason of race, color, or previous condition of servitude, it is abridged whether it is the right to vote for constable, sheriff, Governor, Members of Congress, or any other office. It is for that reason that I think, if we believe the 15th amendment means what it says, we should enact appropriate legislation to prevent abridgment of the right to vote on those grounds.

This question is entirely different from the questions which deal with the conduct of elections. Here we are dealing only with the abridgment of the right to vote by reason of race, color, or previous condition of servitude.

Therefore, I shall vote against the amendment, which would limit the application of the bill to voting in certain elections. The right to vote is at stake.

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

Mr. CASE of South Dakota. I yield.

Mr. JAVITS. Is it not a fact that the 1957 act, which we passed, applies to all elections, including the State elections, and that the constitutionality of the act was sustained a few days ago by the Supreme Court of the United States in the United States against Raines?

Mr. CASE of South Dakota. That is correct.

Mr. JAVITS. Should that not be conclusive upon the Senate?

Mr. CASE of South Dakota. It is my opinion that it is, and that this is appropriate legislation.

Mr. JAVITS. I thank the Senator.

Mr. KUCHEL. Mr. President, if no other Senator desires to speak further, I move——

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

Mr. KUCHEL. I yield.

The PRESIDING OFFICER. The Senate will be in order. Senators will cease audible conversation or retire to the cloakrooms.

Mr. HOLLAND. Mr. President, I should like to ask the Senator if it is not true that the bill as drawn would apply to referendum and recall elections?

Mr. CASE of South Dakota. Mr. President, is the Senator addressing that question to me?

Mr. HOLLAND. I am addressing it to the assistant minority leader, but I shall be glad to address it to the Senator from South Dakota.

Mr. CASE of South Dakota. Does the Senator from California yield to me?

Mr. KUCHEL. I shall be glad to yield to the Senator from South Dakota, to answer the question. Then I shall make a comment myself.

Mr. CASE of South Dakota. I am not a lawyer, certainly not a constitutional lawyer. However, as a layman it seems to me that if the right to vote in an initiative or referendum were abridged, or sought to be abridged, because of race, color, or previous condition of servitude, the bill as drawn would apply.

Mr. KUCHEL. I merely say that, so far as I am concerned, the 15th amendment to the U.S. Constitution is the answer to the question of the Senator from Florida.

Mr. HOLLAND. Mr. President, will the Senator yield for another question?

Mr. KUCHEL. I yield.

Mr. HOLLAND. Besides applying to referendum and recall elections, is it not true that the legislation would also apply to elections for the authorization of bond issues?

Mr. KUCHEL. Again I would say to my friend from Florida that the 15th amendment to the Constitution as written provides that no State shall abridge the right of franchise because of certain conditions, namely, race, color, or previous condition of servitude. I suggest to my friend that if one of those elements were present in any type of election, the bill would also apply.

Mr. HOLLAND. Mr. President, will the Senator yield for one more question?

Mr. KUCHEL. I yield.

Mr. HOLLAND. I should like to ask the Senator if it is not true that the bill would also apply to an election to set up a drainage district or a conservancy district, or to set up some special public improvement or some special public administrative office.

Mr. KUCHEL. My opinion is that if the 15th amendment were violated and if the State were guilty of interfering with the right of franchise because of the enumerated conditions, the proposed legislation would apply, and the answer would be yes.

Mr. HOLLAND. I wish to make this one statement, if the Senator will yield once more. The constitution of my State confines the voting cases that I have mentioned to freeholders, people who have ownership of property and who

pay taxes upon real estate. Considering the tendency of courts to hold any such conditions as an attack upon somebody rather than a preservation of the stability of government, I recognize the fact that the Federal courts as now constituted might hold very easily that these provisions, salutary as they are, were designed to prevent general participation by colored citizens in our State in voting. That is not the case, and I shall not lose sight of that fact. I believe we should amend the proposed legislation to bring it more nearly in line with the specific rights given to the Federal Government and the specific recognition of the right of States to fix the qualifications of electors for the election of Senators, presidential electors, and Members of the House of Representatives. I shall therefore support the amendment offered by the distinguished Senator from North Carolina.

Mr. KUCHEL. Mr. President, I yield 1 minute to the Senator from Colorado.

Mr. CARROLL. We ought to have the record clear, Mr. President, because these questions were asked before the Senate Committee on the Judiciary. I agree with the able Senator from California that this is under the 15th amendment and applies to all elections except as to qualifications of voters—I see the concern of the able Senator from Florida—a State may set different qualifications of voters concerning each separate election, if it is a municipal election or a bond issue or an improvement district, and the qualifications of the voters may differ somewhat; but the certificate of the judge or of the voting referee will cover every election. That is my understanding of the bill.

Mr. KUCHEL. Mr. President, I move to lay the pending amendment on the table; and on the motion, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. Moss in the chair). The yeas and nays have been requested on the motion to lay on the table. Is there a sufficient second?

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from California [Mr. KUCHEL] to lay on the table the amendment of the Senator from North Carolina [Mr. ERVIN]. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The Chief Clerk called the roll.

Mr. JOHNSON of Texas. I announce that the Senator from Louisiana [Mr. ELLENDER], the Senator from Montana [Mr. MANSFIELD], the Senator from Wyoming [Mr. McGEE], the Senator from Rhode Island [Mr. PASTORE], and the Senator from Florida [Mr. SMATHERS] are absent on official business.

The Senator from Connecticut [Mr. DODD] is absent because of illness.

The Senator from Minnesota [Mr. HUMPHREY], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Wyoming [Mr. O'MAHONEY] are necessarily absent.

On this vote the Senator from Louisiana [Mr. ELLENDER] is paired with the Senator from Montana [Mr. MANSFIELD]. If present and voting, the Senator from Louisiana would vote "nay" and the Senator from Montana would vote "yea."

The Senator from Connecticut [Mr. DODD] is paired with the Senator from Florida [Mr. SMATHERS]. If present and voting, the Senator from Connecticut would vote "yea" and the Senator from Florida would vote "nay."

I further announce that if present and voting, the Senator from Minnesota [Mr. HUMPHREY], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Rhode Island [Mr. PASTORE], and the Senators from Wyoming [Mr. McGEE and Mr. O'MAHONEY] would each vote "yea."

Mr. KUCHEL. I anounce that the Senator from Utah [Mr. BENNETT], the Senator from Arizona [Mr. GOLDWATER], and the Senator from Iowa [Mr. MARTIN] are detained on official business.

The result was announced—yeas 72, nays 16, as follows:

[No. 156]

YEAS—72

Aiken	Douglas	McCarthy
Allott	Dworshak	McNamara
Anderson	Engle	Magnuson
Bartlett	Fong	Monroney
Beall	Frear	Morse
Bible	Gore	Morton
Bridges	Green	Moss
Brunsdale	Gruening	Mundt
Bush	Hart	Murray
Butler	Hartke	Muskie
Byrd, W. Va.	Hayden	Prouty
Cannon	Hennings	Proxmire
Capehart	Hickenlooper	Randolph
Carlson	Hruska	Saltonstall
Carroll	Jackson	Schoeppel
Case, N.J.	Javits	Scott
Case, S. Dak.	Johnson, Tex.	Smith
Chavez	Keating	Symington
Church	Kefauver	Wiley
Clark	Kerr	Williams, Del.
Cooper	Kuchel	Williams, N.J.
Cotton	Lausche	Yarborough
Curtis	Long, Hawaii	Young, N. Dak.
Dirksen	Lusk	Young, Ohio

NAYS—16

Byrd, Va.	Johnston, S.C.	Sparkman
Eastland	Jordan	Stennis
Ervin	Long, La.	Talmadge
Fulbright	McClellan	Thurmond
Hill	Robertson	
Holland	Russell	

NOT VOTING—12

Bennett	Humphrey	Martin
Dodd	Kennedy	O'Mahoney
Ellender	McGee	Pastore
Goldwater	Mansfield	Smathers

So Mr. KUCHEL's motion to lay Mr. ERVIN's amendment on the table was agreed to.

Mr. DIRKSEN. Mr. President, I move that the vote by which the motion to lay on the table was agreed to be reconsidered.

Mr. JOHNSON of Texas. Mr. President, I move to lay on the table the motion to reconsider.

The PRESIDING OFFICER (Mr. Moss in the chair). The question is on agreeing to the motion to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

Mr. JOHNSON of Texas. Mr. President——

The PRESIDING OFFICER. The Senator from Texas.

Mr. JOHNSON of Texas. I yield to the Senator from South Carolina [Mr. JOHNSTON], in order that he may submit his amendment.

Mr. JOHNSTON of South Carolina. Mr. President, I submit, and send to the desk, an amendment which I ask to have read at this time.

The PRESIDING OFFICER. The amendment submitted by the Senator from South Carolina will be read.

The CHIEF CLERK. On page 9, in line 14, it is proposed to strike out "general, special, or primary," and in lieu thereof to insert "general."

On page 11, in line 24, it is proposed to strike out "general, special, or primary," and in lieu thereof to insert "general."

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the amendment offered by the Senator from South Carolina [Mr. JOHNSTON] be in order at this time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. DIRKSEN. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from South Carolina for such time as he may desire, in order that he may discuss his amendment.

Mr. JOHNSON of Texas. Mr. President, first, will the Senator from Illinois yield to me?

Mr. DIRKSEN. I yield.

Mr. JOHNSON of Texas. Let me ask whether it is the desire of the Senator from South Carolina to have the yeas and nays taken on his amendment?

Mr. JOHNSTON of South Carolina. I do.

Mr. JOHNSON of Texas. Then, Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there sufficient second?

The yeas and nays were ordered.

Mr. JOHNSON of Texas. Mr. President, will the Senator from Illinois yield further to me?

Mr. DIRKSEN. I yield.

Mr. JOHNSON of Texas. Several Senators have engagements; and the Senate must go to the other body at approximately 12:25. So obviously it will not be possible to have the yeas and nays taken between now and then.

I wonder whether at this time the Senator from South Carolina will explain his amendment for about 20 minutes, with the understanding that immediately after the Senate reconvenes, following the joint session, the yeas and nays will be taken.

Mr. JOHNSTON of South Carolina. Does the Senator from Texas intend to have a quorum had before the Senate goes to the other body?

Mr. JOHNSON of Texas. No. We have just finished taking a yea-and-nay vote, and no doubt there are now more Senators on the floor than there would be following a quorum call.

So if the Senator from South Carolina will now proceed to discuss his amendment for approximately 15 or 20 minutes, the yea-and-nay vote could be taken after we return from the joint session with the other body.

Mr. DIRKSEN. Mr. President, if there is no objection, I yield 15 minutes to the Senator from South Carolina.

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

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that immediately upon the reconvening of the Senate, following the joint session with the other body, it be in order for the Senator from Illinois [Mr. DIRKSEN] to move to lay on the table the amendment of the Senator from South Carolina, and that the yeas and nays be taken on that motion, notwithstanding the order which was entered on yesterday.

The PRESIDING OFFICER. Is there objection to the proposed unanimous-consent agreement? The Chair hears none; and it is so ordered.

Mr. JOHNSTON of South Carolina. Mr. President, my amendment merely will eliminate the words "special, or primary election," and will confine the bill to general elections only. I believe that should be done in order at least to comply with the Constitution and at the same time not interfere with the large number of primary elections in the Nation.

In many parts of the Nation various political parties hold no primary elections. They nominate by convention their candidates for various offices covered under title III of this bill. In fact, our national parties nominate our candidates in this manner. In many areas of the Nation the major parties, as well as splinter parties and minor parties, nominate candidates for office by the convention method, and never even know what a primary election is.

Primary elections are voluntary elections, paid for by the members of the parties holding the primary elections, and are not mandatory, to my knowledge, in any State.

Primary elections are elections allowed by State laws to be held if the parties concerned desire to hold these elections.

Mr. ROBERTSON. Mr. President, at this point will the Senator from South Carolina yield?

Mr. JOHNSTON of South Carolina. I yield.

Mr. ROBERTSON. With respect to primary elections and conventions, let me state that I cannot recall any instance in the present century when the Republican Party has ever made a nomination for a Federal official in a primary in Virginia.

Mr. JOHNSTON of South Carolina. And the same is true in South Carolina.

So, unless my amendment is agreed to, one party would be penalized by this provision of the proposed law; and the other party would, as a result, be benefited. This situation is that simple.

There is no reason in the world for the Federal Government to have anything to do with these primary elections.

For this reason, I have submitted the amendment which would remove primary elections from coverage by title III of this bill.

It will be noted that my amendment has nothing to do with discrimination against any citizen because of race, color, or creed. My amendment simply will confine the bill to dealing with general elections.

The very nature of title III, as it applies to primary elections, is discriminatory, and it will do a great injustice to the Democratic processes.

The various parties in the various States which do hold primaries for the benefit of allowing their people to give free expression toward the selection of candidates set up the primaries at great expense and great trouble. I also wish to point out that in each primary in the various States there is a different set of rules and regulations about the qualification of voters.

Thousands of people volunteer their services and contribute their dollars to pay for these primaries. The Federal Government pays no part of the expense of holding any primary election in the Nation.

If the Senate insists upon title III and the inclusion of primaries and the exclusion of conventions, then we shall in effect, write a law which will abolish State primaries. As the bill now stands, it will encourage doing away with primaries—the very thing which, I believe, Members of the Senate, as good citizens of the United States, do not want to be a party to.

I doubt if any political party would continue to hold primary elections at the great financial expense that will be caused by title III of this bill, if it can accomplish the nomination of its candidates by convention method at little or no expense and, at the same time, exclude itself from the law.

For example, the South Carolina Democratic Party, which holds primaries, would be covered by this bill. However, if, after passage of this bill, the South Carolina Democratic Party decided to no longer hold primaries, it would not be covered by this bill.

So, in effect, if the South Carolina Democratic Party were to abolish primaries to escape the provisions of this law, then this legislation will be taking away from the people the right to nominate candidates in primary elections. It will destroy primary elections. People who believe in primaries will be penalized by this bill.

It is highly unfair to require political parties that give to the people the right to vote and select their nominees in primaries to comply with this law, which excludes nomination of candidates by the closed shop or convention method.

That method is not touched in this bill. I may later make such an offer. If this bill is to apply to primaries, then it should apply to conventions also, where, in New York, they make nominations.

I feel that what is good for the goose is good for the gander, and so I offer my amendment, which simply provides that no primary elections shall be covered by this bill.

I have here, too, what I think are more valid, legal arguments to support my position. One of the main sources of these arguments comes from the Constitution of the United States, which is the supreme law of the land.

In the first place, there are no such things as Federal elections. All elections, whether they be for town councilmen or for the U.S. Senators from the States, are local elections, because in every instance, persons who cast their ballots are casting them for local representation. Senators in this body represent the localities they come from. This is a fact which is indisputable. The individual votes for candidates in order to get individual representation if possible.

In the second place, the 10th amendment to the Constitution of the United States gives States the power to control elections and to make laws outlining qualifications of voters. Let me quote the 10th amendment.

I call attention to the fact that there cannot be found written in the Constitution any right of the Federal Government to dictate anything in regard to elections, but we do find that the 10th amendment of the Constitution reads as follows:

> 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.

That is the end of the quotation from the 10th amendment to the Constitution.

Mr. President, nowhere in the Constitution can we find a section which gives the Federal Government control over local elections, or anything to do with local elections. Nor can we find a section which prohibits the States' acting in this field. Therefore, the States have express power to govern their own elections. It is that simple.

Some may take issue with this premise, but let us return to the constitutional provisions. In article I, section 4, we find the following, which is the only basis for a bill of this nature:

> SEC. 4. The Times, Places, and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

Mr. President, I call to the attention of every Member of the Senate that this section refers only to elections—not primaries—of Senators and Representatives—and we are elected in the general election—and that the States, through their legislatures, not the Federal Government, can prescribe the time, the place, and the manner of such elections.

True, the Congress can pass laws which alter State laws concerning the time and manner of elections of Senators and Representatives, and congressional districts can be changed by Congress so that the places of choosing Representatives can be changed.

However, note the limiting words: Time, places, and manner. "Time" necessarily refers to general elections. Shall we have a general election in November or March? Congress has the power to establish for the whole Nation a uniform time at which each State shall elect its Members of Congress. Our forefathers saw the need for such a provision so that each session of Congress would be uniform and predictable, and so that Members of Congress from

every part of the Nation would be elected at the same time.

"Places" refers to congressional districts from which the Senators and Representatives are elected. Since U.S. Senators are elected from the whole State which they represent, the Federal Government does not have the power to regulate these districts, and so this exception is expressly incorporated into section 4 of article I.

In my estimation, the Federal Government cannot set up polling places under this section.

The big question may arise when the word "manner" is sought to be explained. However, Mr. President, I firmly believe that "manner" applies to the democratic principle of this secret ballot. Note also that the section states "manner of holding elections," and not "manner of elections."

"Manner" in this sense refers back to both "time" and "places"—that is the distinction between those two terms—and should not be enlarged to mean that the Federal Government can control State elections by the passage of laws through the Congress. This would clearly be unconstitutional.

Mr. President, the foregoing arguments may seem pointless to some persons, but I am only trying to bring out the fact that primaries are not elections of Senators and Representatives, but are voluntary party elections of candidates to run for these offices in general elections.

There is a very big difference in voluntarily having an election to select a candidate to run for Senator, and electing a Senator in a general election. This fact should be noted before we attempt to include primaries in the meaning of elections.

I realize that someone in this Chamber will probably say to me, "but, in your State of South Carolina, being elected in a primary is tantamount to being elected in the general election." While that may be true in some cases, it is not true as a matter of law.

I point out again that insistence on including primaries under the law may cause the abolishment of primaries in the various States, thereby disfranchising more Negro and white voters than the proposed law will ever help.

The Democratic primary in South Carolina does elect by preference the candidates who will be certified by the general election, but it is not impossible to have a Republican to oppose these candidates in the general election, and if there is interparty opposition, the candidate with the highest number of votes wins. The fact is that Republicans do nominate candidates to oppose Democrats, but they do it by convention method, which is not covered by the bill.

Mr. President, the argument that primaries in some States are tantamount to election fails for another reason. If we, as Members of Congress, pass legislation because of this reason, we are passing sectional legislation aimed at certain areas only, and we are failing in our duty by doing that. In fact, the very inclusion of primaries in this piece of legislation is discriminatory.

The PRESIDING OFFICER. The Senator will suspend. The hour of 12:20 has arrived.

Mr. JOHNSTON of South Carolina. May I have 1 minute more?

The PRESIDING OFFICER. A previous order has been entered.

Mr. DIRKSEN. Mr. President, with the understanding that I reserve my right to the floor, I yield 1 minute.

The PRESIDING OFFICER. The order has been entered.

Mr. DIRKSEN. The majority leader is not present.

The PRESIDING OFFICER. The order, I am informed, applies nevertheless.

Mr. JOHNSTON of South Carolina. If primaries are to be included, then the convention method of choosing candidates should also be included within the provisions of the bill. From the standpoint of law, however, neither should be included. Both primaries and conventions have the very same purposes and aims—to choose candidates or delegates, as the case may be, and therefore they should be given the same treatment in legislation. This is only fair.

Discrimination should and can be eliminated by the mere act of adopting my amendment. In my estimation, this would be the more sensible approach to the problem.

One last word of warning: It does not take a brilliant lawyer to tell that, by enactment of this bill into law, without excluding primaries, this bill will disfranchise more Negro voters in the South than it will ever help or enable to vote. This is true, because I predict that practically every Southern State's Democratic Party will abolish primary elections and go back to the conventional convention system of nominating candidates for public office.

I hope the Senate will adopt my amendment out of a sense of justice and fair play, as well as to preserve the holding of primary elections throughout the United States.

Mr. DIRKSEN. Mr. President, with the further understanding that I reserve my right to the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess and will then proceed to the Hall of the House of Representatives to hear the address to be delivered by the President of Colombia.

Thereupon, at 12 o'clock and 26 minutes p.m., pursuant to the order previously entered, the Senate took a recess, subject to the call of the Chair.

JOINT MEETING OF THE TWO HOUSES—ADDRESS BY THE HONORABLE ALBERTO LLIERAS-CAMARGO, PRESIDENT OF COLOMBIA

The Senate, preceded by the Secretary, Felton M. Johnston, the Sergeant at Arms, Joseph C. Duke, the Vice President, and the President pro tempore, proceeded to the Hall of the House of Representatives for the purpose of attending the joint meeting of the two Houses to hear the address to be delivered by the Honorable Alberto Llieras-Camargo, President of Colombia.

(For the address delivered by the President of Colombia, see the House proceedings of today's CONGRESSIONAL RECORD.)

RESUMPTION OF LEGISLATIVE SESSION

The Senate returned to its Chamber at 1 o'clock and 25 minutes p.m. and reassembled when called to order by the Presiding Officer (Mr. CANNON in the chair).

CIVIL RIGHTS ACT OF 1960

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

Mr. DIRKSEN. Mr. President, if there are no further requests for time, I move to table the amendment of the distinguished Senator from South Carolina [Mr. JOHNSTON] and I ask for the yeas and nays.

Mr. JOHNSON of Texas. Mr. President, may we have the yeas and nays ordered?

The PRESIDING OFFICER. The order already entered covers the yeas and nays. The yeas and nays are ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

The question is on agreeing to the motion of the Senator from Illinois [Mr. DIRKSEN] to lay on the table the amendment of the Senator from South Carolina [Mr. JOHNSTON]. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. JOHNSON of Texas. I announce that the Senator from New Mexico [Mr. CHAVEZ], the Senator from Rhode Island [Mr. GREEN], the Senator from Arizona [Mr. HAYDEN], the Senator from Montana [Mr. MANSFIELD], and the Senator from Florida [Mr. SMATHERS] are absent on official business.

I also announce that the Senator from Connecticut [Mr. DODD] is absent because of illness.

I further announce that the Senator from Minnesota [Mr. HUMPHREY], the

Senator from Massachusetts [Mr. KENNEDY], and the Senator from Wyoming [Mr. O'MAHONEY] are necessarily absent.

I further announce that if present and voting, the Senator from New Mexico [Mr. CHAVEZ], the Senator from Rhode Island [Mr. GREEN], the Senator from Arizona [Mr. HAYDEN], the Senator from Minnesota [Mr. HUMPHREY], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Wyoming [Mr. O'MAHONEY], and the Senator from Connecticut [Mr. DODD] would each vote "yea."

On this vote, the Senator from Florida [Mr. SMATHERS] is paired with the Senator from Montana [Mr. MANSFIELD].

If present and voting, the Senator from Florida would vote "nay" and the Senator from Montana would vote "yea."

Mr. KUCHEL. I announce that the Senator from New Hampshire [Mr. BRIDGES], the Senator from Indiana [Mr. CAPEHART], the Senator from Kansas [Mr. CARLSON], the Senator from Kentucky [Mr. MORTON], and the Senator from Kansas [Mr. SCHOEPPEL] are detained on official business.

I further announce that, if present and voting, the Senator from Indiana [Mr. CAPEHART] would vote "yea."

The result was announced—yeas 68, nays 18, as follows:

[No. 157]

YEAS—68

Aiken	Engle	Magnuson
Allott	Fong	Martin
Anderson	Frear	Monroney
Bartlett	Goldwater	Morse
Beall	Gore	Moss
Bennett	Gruening	Mundt
Bible	Hart	Murray
Brunsdale	Hartke	Muskie
Bush	Hennings	Pastore
Butler	Hickenlooper	Prouty
Byrd, W. Va.	Hruska	Proxmire
Cannon	Jackson	Randolph
Carroll	Javits	Saltonstall
Case, N.J.	Johnson, Tex.	Scott
Case, S. Dak.	Keating	Smith
Church	Kefauver	Symington
Clark	Kerr	Wiley
Cooper	Kuchel	Williams, Del.
Cotton	Lausche	Williams, N.J.
Curtis	Lusk	Yarborough
Dirksen	McCarthy	Young, N. Dak.
Douglas	McGee	Young, Ohio
Dworshak	McNamara	

NAYS—18

Byrd, Va.	Holland	Robertson
Eastland	Johnston, S.C.	Russell
Ellender	Jordan	Sparkman
Ervin	Long, Hawaii	Stennis
Fulbright	Long, La.	Talmadge
Hill	McClellan	Thurmond

NOT VOTING—14

Bridges	Green	Morton
Capehart	Hayden	O'Mahoney
Carlson	Humphrey	Schoeppel
Chavez	Kennedy	Smathers
Dodd	Mansfield	

So Mr. DIRKSEN's motion to table the amendment of Mr. JOHNSTON of South Carolina was agreed to.

Mr. DIRKSEN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. JOHNSON of Texas. Mr. President, I move to lay that motion on the table.

The motion to table was agreed to.

Mr. JOHNSON of Texas. Mr. President, while Members of the Senate are on the floor, I should like to make a unanimous-consent request, so that Senators may know what it is. In 30 or 35 minutes we expect another yea-and-nay vote, on the Carroll amendment. I ask unanimous consent that on the Carroll amendment we may have not to exceed 30 minutes of debate on each side, 30 minutes to be controlled by the author of the amendment, the Senator from Colorado [Mr. CARROLL], and 30 minutes to be controlled by the minority leader, the Senator from Illinois [Mr. DIRKSEN]. The minority leader informs me that he does not expect to take all of the 30 minutes. Then he will make a motion to table the Carroll amendment. We will have the yeas and nays on the motion to table. I hope, therefore, that Senators will remain in the Chamber during this period, if the request is agreed to.

Mr. ELLENDER. Is it understood that I am to follow the disposition of the Carroll amendment?

Mr. JOHNSON of Texas. Yes.

Mr. McNAMARA. Mr. President, has this request been cleared with the Senator from Colorado?

Mr. JOHNSON of Texas. Yes. The Senator from Colorado is here.

Mr. CARROLL. Yes.

Mr. McNAMARA. I have no objection.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

PERMISSION FOR SENATOR McCLELLAN TO TESTIFY IN CONTEMPT PROCEEDING IN U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Mr. McCLELLAN. Mr. President, on August 8, 1958, pursuant to Senate Resolution 362, 85th Congress, 2d session, the Senate voted to cite Maurice A. Hutcheson, general president of the United Brotherhood of Carpenters, for contempt of the Senate arising out of his appearance before the Senate Select Committee on Improper Activities in the Labor or Management Field.

The U.S. district attorney for the District of Columbia has asked me to appear voluntarily without subpena to testify on matters which are part of the published public record of the hearings of the Senate Select Committee on Improper Activities in the Labor or Management Field.

Since the Senate is in session, there is some question as to whether a Senator can testify without the consent of the Senate. I therefore request unanimous consent that the Senate authorize me to appear and testify in the U.S. District Court for the District of Columbia in this contempt proceeding during this session of the Senate.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Arkansas? The Chair hears none, and the request is granted.

CIVIL RIGHTS ACT OF 1960

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

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. DIRKSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Illinois will state it.

Mr. DIRKSEN. Under the unanimous-consent agreement entered a moment ago, as I understand, the distinguished Senator from Colorado [Mr. CARROLL] has 30 minutes in support of his amendment, and I shall have 30 minutes at my disposal. I expect to take very little of my time. At the expiration of that time, I shall offer a motion to table.

The PRESIDING OFFICER. The understanding of the Senator from Illinois is correct. The Chair recognizes the Senator from Colorado.

Mr. CARROLL. I call up my amendment designated "3-30-60—E," which I submitted on behalf of myself, Mr. HENNINGS, Mr. CHURCH, Mr. CLARK, Mr. HART, Mr. WILLIAMS of New Jersey, Mr. JAVITS, Mr. KEATING, and Mr. SCOTT, and ask that it be read.

The PRESIDING OFFICER. The amendment will be read.

The CHIEF CLERK. On page 16, line 12, after "law" it is proposed to insert ": *Provided*, That proof of the requirements set forth in clauses (2) (a) and (b) may be waived by the court with respect to any applicant if the court finds that the acts necessary to fulfill such requirements would be vain and futile, or serve no useful purpose, as applied to such applicant".

On page 17, line 15, after "and" insert ", unless waived by the court with respect to such applicant pursuant to the first paragraph of this subsection,".

The PRESIDING OFFICER. The Senator from Colorado is recognized. How much time does the Senator yield himself?

Mr. CARROLL. I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 10 minutes.

Mr. CARROLL. Mr. President, I believe this is perhaps one of the most important amendments left to be offered to the pending bill. It has been said by the President of the United States, by the Attorney General, and by other persons, that we now, at this stage, have a good civil rights bill. I think it is not as good as it ought to be. One of the reasons why I offer the amendment is my desire to strengthen the bill where there is a weakness, a defect, which was inserted in the bill by the other body, inserted, I believe, under strange and unusual circumstances.

The purpose of the amendment is very simple. We know that a court of equity has certain powers but I want to spell out one of them. I wish to make a legislative record, and I think the best way to do so is by a discussion of the amendment. I trust the amendment will be agreed to.

The purpose of the amendment is to provide that a court of equity may waive the requirement that the applicant go back and attempt to register since the finding by the court of the pattern or practice.

Let us assume that a number of Negroes have been denied their constitutional right, their fundamental right, to vote, and that the Attorney General, in behalf of the people of the United States, institutes a suit. After the Attorney General has brought suit, evidence will be heard and based upon it the court will make a finding.

The court may make a finding of a pattern or a practice. In the bill as it came from the other body, the words were inserted "since such finding by the court."

In my opinion, those simple words have imposed an undue restriction, and require action on our part. This phrase has gutted the effectiveness of the bill.

I know that many Senators, after 8 weeks, are tired of debating the bill. But now we are in the clutch; we are in the closing days of the debate on the bill. If the proposed legislation is to have any meaning at all, there must not be a continued denial of the right to vote, as has been the case for so many years.

Under this bill, the applicant must prove, first, that he is qualified under State law to vote. That is proper. That is constitutional. What else must he prove? He must prove that since the court's finding he has gone back to the registrar, and that the registrar under color of law has either failed or refused to register him, or, that the registrar, under color of law, has found him not qualified to vote.

I think this may create an undue hardship in some areas. I think that such a requirement puts the individual whom the law was supposed to help in an almost hopeless predicament; a truly unworkable predicament.

The purpose of the amendment is to leave the question to a court of equity. The court will determine whether it is necessary for the applicant to go back and register since the finding of the pattern or practice, or it will determine, according to the circumstances of the case, whether he will not require this act to be performed because it would be vain and futile, or would serve no useful purpose.

I have discussed the matter with the Attorney General of the United States. I have discussed it with the Deputy Attorney General of the United States, Judge Walsh. Not only have I discussed it, but I have asked many questions of them. On several occasions I have had conflicting opinions from them as to whether the words beginning on line 6, page 20, would be controlling or decisive in the matter. I shall read the sentence:

> This subsection shall in no way be construed as a limitation upon the existing powers of the court.

All I seek to do is delineate one of those powers.

I see in the Chamber the Senator from Illinois, the distinguished minority leader [Mr. DIRKSEN]. He is a member of the Judiciary Committee, and I wonder whether he would be willing to answer some questions at this time. Let me say that I have no illusions about what will happen to my amendment; but I want to make a record for future reference, because I seek to strengthen the hand of the executive branch and the hand of the judicial branch, for the benefit of applicants who will seek an opportunity to vote.

In saying that I have no illusions about the fate of this amendment, I point out that evidently the White House is not in favor of the amendment, and the majority leader is not in favor of the amendment, and the minority leader is not in favor of the amendment. Under those circumstances, it would appear that the entire machinery of the Senate, in terms of a substantial number of Senators, is geared in opposition to this amendment.

Nevertheless, I believe that the legislative history in connection with this matter should be made clear. Therefore, I ask the Senator from Illinois whether he recalls that, the other day, when this matter was before the Judiciary Committee, I asked questions of the Attorney General, in an attempt to clarify this matter. Does not the Senator from Illinois agree?

Mr. DIRKSEN. I agree that this matter was roundly discussed in the committee, and that the Deputy Attorney General, with all the finality that words can convey, said the amendment was absolutely unnecessary and was surplusage, and that they did not want it incorporated in the bill.

Mr. CARROLL. Did he say why it was surplusage?

Mr. DIRKSEN. I believe that the Deputy Attorney General indicated, among other reasons, that, if the action now proposed were taken, it would seem as if we were trying to pinpoint the equity jurisdiction of the court, and that it is fair to assume—and I think the Senator from Colorado shares this conviction—that a court has the equity power to make it unnecessary to engage in a vain or futile act, without our having to write that power specifically into a statute.

Mr. CARROLL. If the amendment is surplusage and is not needed, do the existing inherent powers of a court of equity cover this problem? That is the information I sought to obtain from the Deputy Attorney General.

I should like to know whether a court of equity, sitting in judgment in such a case, would have this power, under this bill, in the absence of this amendment, when one applicant or a group of applicants came before the court.

Mr. DIRKSEN. That was the opinion of the Deputy Attorney General when he appeared before the committee.

Mr. CARROLL. The Senator from Illinois is an able lawyer, and I should like to know whether that is his opinion. Does he believe that is the situation—namely, that in view of the legislative history of the bill a court of equity would have that power, in the absence of this amendment?

All I seek is to remove an obstacle from the path of an applicant who would be a party to such an application. If the court could find that such an act by an applicant would be vain and futile, and would not serve any useful purpose, and therefore waive the requirement of such act, that might place a different aspect on the situation, insofar as this amendment is concerned. But I want to be sure that the court has this power; that is the sole purpose of this amendment. In one case, a court of equity might say, "I think it advisable, in view of the order of the court and the changed situation, to have the State registrar given the opportunity to register you"; but in another case, where the situation is impossible, I want the court to have this power.

The PRESIDING OFFICER (Mr. BIBLE in the chair). The time of the Senator from Colorado has expired.

Mr. CARROLL. Mr. President, I yield myself an additional 3 minutes.

The PRESIDING OFFICER. The Senator from Colorado is recognized for an additional 3 minutes.

Mr. CARROLL. Mr. President, we know that, for a generation, some of these people have been prevented from registering. So, in a situation in which 100 or 500 or even 1,000 persons in that class might be involved, the court should be able to say it would be vain and futile for them to stand in line to register. Does the Senator from Illinois care to comment on that point?

Mr. DIRKSEN. Yes. I think the best comment I could make is set forth in a memorandum on this very point, submitted no later than midafternoon on yesterday by the Deputy Attorney General.

Mr. CARROLL. Will the Senator from Illinois be willing to read that on his time?

Mr. DIRKSEN. Yes.

Mr. CARROLL. I shall be very happy to have it in the RECORD.

Mr. DIRKSEN. I shall read it in my time, Mr. President.

This is the language of the Department of Justice:

THE CARROLL AMENDMENT

The Carroll amendment should be opposed simply because it is surplusage. This is clear both from the express language of the bill itself and from well-established equity doctrine.

The authors of the amendment presumably have in mind a situation where it would be vain and futile for a Negro applicant to attempt to qualify to vote before State officials. But the bill clearly covers this situation, for requirement (2) is fulfilled whenever an applicant has been "deprived of * * * the opportunity" to qualify to vote. It has always been intended that that requirement would be fulfilled in the event that State officials had in effect closed their doors to Negro applicants.

Moreover, it is settled equity doctrine that the doing of a futile act will never be demanded as a prerequisite to relief. Thus, for a second reason the proposed language would be surplusage.

Of course, placing unnecessary language in a bill is always unwise. This would be especially true in the present case. For if the Carroll amendment were adopted with respect to requirement (2), it might imply a congressional intent not to have the equity futility doctrine applicable in other areas of the bill. Thus, the net effect of the Carroll amendment might be seriously to weaken the bill.

Mr. CARROLL. I thank the Senator from Illinois. I had heard there was such a communication from the Attorney General, and I am very happy to have it in the RECORD.

Mr. President, the argument of the Attorney General was presented yesterday, at the time when the distinguished Senator from North Carolina [Mr. ERVIN] offered his amendment; and in the committee I "bought" that argument. I said, "If that amendment is put in this section of the bill, it may operate in this section only to the exclusion of other sections." So I supported the position of the Attorney General.

I submit that, if the amendment is surplusage, why do some threaten to filibuster on the amendment? If it is so simple, why is there such great opposition to this amendment—so great that some are spreading fears and doubts in the halls and corridors of this building. This type of opposition does not come from the administration; it comes from those who do not wish any bill at all enacted in this field.

Therefore, the memorandum from the Attorney General does not impress me at all, because this language which I shall read applies to the entire subsection. Again, I read the language on page 20, in line 6:

This subsection—

Referring to the entire subsection——

shall in no way be construed as a limitation upon the existing powers of the court.

I merely seek to implement that provision, knowing what the other body did with respect to this particular page, and knowing of the great effort being made here to hamstring the court and to interfere with its operation.

That is why I made the proposal, just a few days ago, to include the words "the times and places the court shall direct," because I was trying to delineate that power of a court of equity. I believe the court should have that power, because for the first time in the history of this Nation we are proposing to use the judicial process when necessary for a voting procedure, and none of us is able to foresee all of the problems that will come before the judge.

I want to use everything at my command to make a part of the legislative history of the Senate and of the House the desire that the Congress wants the court to use its full equity powers in the fullfillment of and the protection of fundamental constitutional rights of individuals for whom this needed legislation is designed.

I thank the Attorney General for that portion of the memorandum which says that my amendment is surplusage because the court of equity does have such powers, but to give us the specious argument that the amendment may interfere with other sections of the bill, considering the lines I have just read, seems to me to be overcritical of the amendment.

Does the Senator from Illinois, having read the memorandum into the RECORD, have a copy?

Mr. DIRKSEN. I have only the one copy here, but the Senator is welcome to use it.

Mr. CARROLL. May I have it and make reference to it? I shall be happy to return it.

The PRESIDING OFFICER. The time of the Senator from Colorado has expired. Does he yield himself additional time?

Mr. CARROLL. Is the Senator from Illinois willing to take some time on the amendment?

Mr. DIRKSEN. No; not at this time.

Mr. CARROLL. There is no point in unduly laboring the amendment; its purpose is self-evident, and its need has been demonstrated.

The PRESIDING OFFICER. Does the Senator from Colorado wish to yield himself 2 additional minutes?

Mr. CARROLL. Yes; I yield myself an additional 2 minutes.

Mr. President, now that I have the Attorney General's memorandum before me, I want to read the first line:

The Carroll amendment should be opposed simply because it is surplusage.

If it is such a simple surplus amendment, why is there mention of this prospect of filibuster on something that is mere surplusage, and why is the fear and doubt being spread through this body that if the Carroll amendment is adopted, the bill will have to go to conference, and if it goes to conference, it will not get out of the House Rules Committee?

It seems to me that if this little, simple amendment cannot be accepted, there is "something rotten in Denmark" with this bill, and its provisions for securing voting rights for people.

I desire to read again from this memorandum of the Attorney General.

The PRESIDING OFFICER. The additional time of the Senator from Colorado has expired. Does the Senator wish to yield himself an additional 2 minutes?

Mr. CARROLL. Yes, an additional 2 minutes.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 2 additional minutes.

Mr. CARROLL. I wish to read this part of the memorandum, because I want to analyze it:

The authors of the amendment presumably have in mind a situation where it would be vain and futile for a Negro applicant to attempt to qualify to vote before State officials.

The Attorney General says further:

But the bill clearly covers this situation, for requirement (2) is fulfilled whenever an applicant has been "deprived of * * * the opportunity" to qualify to vote. It has always been intended that that requirement would be fulfilled in the event that State officials had in effect closed their doors to Negro applicants.

It means such an applicant would have to offer further proof. That is what I am trying to avoid in a proper case; that we do not force a man to go back and make an application and then offer further proof, when such an application would be vain and futile or serve no useful purpose. I think a court of equity would not require it in a proper case.

I read further from the memorandum:

Moreover, it is settled equity doctrine that the doing of a futile act will never be demanded as a prerequisite to relief. Thus, for a second reason the proposed language would be surplusage.

I think that is excellent. The Attorney General believes that. The junior Senator from Colorado believes it. The able minority leader believes it. If we are all of this belief, we have established legislative history for the aid of courts of equity. But I think there is one way to clearly proclaim the belief. Some Members of this body do not believe it. They think the amendment is a very dangerous amendment. There is one way to settle the question, and that is to put it in the bill.

The PRESIDING OFFICER. The time of the Senator from Colorado has expired.

Mr. CARROLL. Mr. President, I observe the Senator from New York [Mr. JAVITS]. I yield 5 minutes to him.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, I realize we are trying to bring our part of this debate to a conclusion and I think we have tried to cooperate to that end. No one seems to know what those who are against the civil rights bill will do. We come now to an amendment which I consider to be of vital importance to the bill, even if we were to go so far in this bill as it is desired to go according to a majority of the Senate.

I must say I regret very deeply, from the appearance in the Chamber, that there is obviously a feeling on the part of the Members of this body that at this stage no amendment is worth considering. I thoroughly disagree with that view in respect to this amendment, which I think is essential to the legislative scheme which we are trying to create by the bill, and essentially to meet the obvious defect in the Civil Rights Act of 1957 which has been demonstrated in the last 3 years.

Whatever the Attorney General may say, whether he considers the amendment surplusage or not, the fact is that here is a catechism of words which was written into the particular bill which is before us by a considered vote of the House of Representatives. I can hardly see how any court, notwithstanding the legislative record which we are making in the Senate, could say that the same words mean nothing, though they have been inserted, as contrasted to what the provision meant prior to the time the words were inserted.

For all practical purposes, the Attorney General is telling us that the insertion of these words has not changed the situation. I cannot believe that if we pass this bill containing these words, a court will come to the conclusion that the words mean nothing. There will be at least a straining after some construction of the meaning of these words. It seems to me that if the words had been omitted, then a court of equity might have had some freedom with respect to the question of making a demand upon a registrar even though the demand would be futile. It seems to me a court is being hindered very much in coming to that conclusion by the inclusion of these words.

That it should be within the power of a court of equity seems to me to be elementary when we see the tremendous body of evidence which was found by the Civil Rights Commission, and the unanimous finding of that Commission that the right to vote and to register in case after case—not one case, but a whole legion of cases—was frustrated by the mere fact of the atmosphere, the climate of intimidation, of danger—which fact was buttressed by evidence that there were assaults and other actual acts of intimidation to back up the fact that when there was a climate of what actually happened, that condition actually inhibited the whole voting process.

In short, if we are trying to reach a situation in which the mere effort to make a demand to register and vote is one of the limits in frustrating the right to vote, it seems to me we should do our utmost to eliminate the need for that demand, which will only serve to intimidate, rather than leave in the bill words which can, according to the best construction of the pro-civil-rights advocates, give the court far more trouble than it has now in believing that the words are futile and therefore not called for.

I believe, Mr. President, this is a matter of conscience for those of us who feel that at least, if it is the voting right about which we are going to legislate, we ought to make that copper riveted and ought to do our utmost to make this change in the bill, as recommended by the Senator from Colorado.

Finally, Mr. President, I wish to point out——

The PRESIDING OFFICER. The time of the Senator from New York has expired.

Mr. JAVITS. Mr. President, will the Senator yield me 1 more minute?

Mr. CARROLL. I yield 1 minute to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 1 minute.

Mr. JAVITS. If we are really going to do this job the way it ought to be done, the amendment really should provide for striking out the words inserted in the House bill, to make the provision exactly as drafted by the Attorney General. The proposal of the Senator from Colorado is distinctly a compromise, because it requires an additional finding of fact of the court.

Mr. President, it seems to me this is the very least we can do to keep integral the essence of what the majority in this Chamber really seeks to accomplish. I hope very much the motion to table will fail and that the amendment will be agreed to.

I thank the Senator.

Mr. CARROLL. Mr. President, I thank the Senator from New York for his able presentation.

Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without the loss of any time for either side. I have only about 7 minutes left. The able minority leader has not used any of his time.

The PRESIDING OFFICER. The minority leader has used 3 minutes of his time, and has 27 minutes remaining.

Mr. CARROLL. Mr. President, I ask unanimous consent that we may have a live quorum, and then proceed to the vote.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Colorado?

Mr. DIRKSEN. Mr. President, the unanimous-consent request was that there be a live quorum and that the Senate proceed to vote.

Mr. CARROLL. The Senator from Illinois, of course, has 27 minutes remaining.

Mr. DIRKSEN. The minority leader is going to take perhaps only 3 minutes. I did not want the unanimous-consent request to pinpoint the fact that the minute the quorum is obtained, after Senators are summoned to the Chamber, we shall vote, without my having an opportunity to use about 3 minutes of my time, at least.

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

Mr. CARROLL. The Senator from Colorado also wants about 3 minutes.

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

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Colorado?

Mr. DIRKSEN. If the Senator from Colorado will modify the request, so that it will be a request to suggest the absence of a quorum without the time being charged to either side, I will have no objection.

Mr. CLARK. Mr. President, will the Senator yield for a suggestion?

Mr. DIRKSEN. I yield.

Mr. CLARK. I wonder if my two colleagues would agree that we have a live quorum, the time not to be charged to either side, and that thereafter each side have 5 minutes, after which the Senate would proceed to vote.

Mr. DIRKSEN. No. The previous unanimous-consent request was for 30 minutes on each side. I am the only one, apparently, who is going to take time on this side. I do not believe we need to modify that agreement by changing the limitation on the time.

Mr. CARROLL. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum, without the time being charged to either side.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Colorado? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The Chief Clerk called the roll and the following Senators answered to their names:

[No. 158]

Allott	Engle	Murray
Bartlett	Green	Pastore
Beall	Hayden	Proxmire
Bible	Hill	Randolph
Bush	Holland	Russell
Byrd, Va.	Javits	Saltonstall
Byrd, W. Va.	Johnson, Tex.	Schoeppel
Carroll	Keating	Smathers
Clark	Kuchel	Smith
Cotton	Lusk	Stennis
Curtis	McClellan	Wiley
Dirksen	McNamara	Williams, Del.
Dworshak	Magnuson	Young, N. Dak.
Eastland	Morse	

The PRESIDING OFFICER. A quorum is not present.

Mr. JOHNSON of Texas. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After a little delay, Mr. ANDERSON, Mr. BENNETT, Mr. BRIDGES, Mr. BRUNSDALE, Mr. BUTLER, Mr. CANNON, Mr. CAPEHART, Mr. CARLSON, Mr. CASE of New Jersey, Mr. CASE of South Dakota, Mr. CHAVEZ, Mr. CHURCH, Mr. COOPER, Mr. DOUGLAS, Mr. ELLENDER, Mr. ERVIN, Mr. FONG, Mr. FREAR, Mr. FULBRIGHT, Mr. GOLDWATER, Mr. GORE, Mr. GRUENING, Mr. HART, Mr. HARTKE, Mr. HENNINGS, Mr. HICKENLOOPER, Mr. HRUSKA, Mr. JACKSON, Mr. JOHNSTON of South Carolina, Mr. JORDAN, Mr. KEFAUVER, Mr. KERR, Mr. LAUSCHE, Mr. LONG of Hawaii, Mr. LONG of Louisiana, Mr. MARTIN, Mr. MCCARTHY, Mr. MCGEE, Mr. MONRONEY, Mr. MORTON, Mr. MOSS, Mr. MUNDT, Mr. MUSKIE, Mr. O'MAHONEY, Mr. PROUTY, Mr. ROBERTSON, Mr. SCOTT, Mr. SPARKMAN, Mr. SYMINGTON, Mr. TALMADGE, Mr. THURMOND, Mr. WILLIAMS of New Jersey, Mr. YARBOROUGH, and Mr. YOUNG of Ohio entered the Chamber and answered to their names when called.

The PRESIDING OFFICER. A quorum is present.

The question is on agreeing to the amendment of the Senator from Colorado [Mr. CARROLL].

The Senate is operating under a unanimous-consent agreement. Under the agreement the Senator from Colorado [Mr. CARROLL] has 7 minutes remaining. The minority leader has 27 minutes remaining.

Mr. CARROLL. Does the Senator from Illinois desire to speak at this time?

Mr. DIRKSEN. Mr. President, I shall use only about 3 minutes. Then I shall make a motion to lay on the table the amendment of the Senator from Colorado. I suggest to my esteemed friend from Colorado that he use the remainder of his time.

The PRESIDING OFFICER. The Senator from Colorado has 7 minutes remaining.

Mr. CARROLL. I yield myself 3 minutes at this time.

I desire to make a few points. I think we understand the issue fairly well.

The first point I wish to make is in connection with the memorandum of yesterday from the Attorney General. The Attorney General says in his memorandum:

> The Carroll amendment should be opposed simply because it is surplusage.

If it is opposed simply because it is surplusage, why all the fear and doubt that has been engendered in the corridors, that if this amendment is adopted the House will not accept it in conference; or, that if the amendment is accepted it will be the beginning of a filibuster? As I indicated before, there is something terribly wrong with the bill in its present form if this little amendment is not acceptable.

What is the purpose of the amendment? It is only to give to a court of equity the powers which the Attorney

General says it already has. The Attorney General says in his letter:

> Moreover, it is settled equity doctrine that the doing of a futile act will never be demanded as a prerequisite to relief. Thus, for a second reason, the proposed language would be surplusage.

As I have said on another occasion, I do not know whether this amendment will be agreed to. If it does nothing more than create a legislative history to indicate that nothing contained within the provisions of section 2(a) and 2(b), which I seek to amend, will interfere with the powers of a court of equity, we shall have achieved something substantial in the discussion this afternoon.

The distinguished Senator from South Dakota [Mr. CASE], who is not now present in the Chamber, raised a very important question earlier. The question raised was, "When a voting referee or a court issues a certificate of registration, in which elections may the applicant vote?"

Obviously, he cannot vote in a State election unless he qualifies under State law. Obviously, he cannot vote in a municipal election unless he qualifies under municipal law. Obviously, he cannot vote in a bond election unless he can qualify under State or municipal law. How many times are we going to make this man go back to the registrar?

The PRESIDING OFFICER (Mr. BIBLE in the chair). The 3 minutes the Senator has yielded to himself have expired.

Mr. CARROLL. I yield myself 2 additional minutes. How often are we going to make this applicant go back to the registrar? No one in this body is so wise that he can foresee and foretell all the circumstances which could arise before a court of equity. Have we such little confidence in the courts, in southern judges, who have taken an oath under the Constitution, and who we know will determine what is wise under the law? We have written out minimal standards. Can we not write into this bill this ancient rule of equity, that the court will not require the applicant to do a vain, useless, and futile act? This has been the law for centuries. It is the law today. What is wrong with the amendment?

If the bill is as weak as I think it is, the amendment will strengthen it. That is why there is this spirited opposition.

I wish to say to my able friend from Illinois that I have promised to yield some time to the able Senator from Idaho. I have no desire to foreclose him. The Senator from Idaho is on his way to the Chamber. I have promised to yield some time to him. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Colorado has 2 minutes remaining.

Mr. CARROLL. Mr. President, will the Senator from Illinois yield me a little time from the time he has at his disposal?

Mr. DIRKSEN. No. Under the unanimous-consent agreement, 30 minutes was allotted to each side. I shall make my motion to table in about 2 minutes.

The PRESIDING OFFICER. Is the Senator yielding himself additional time?

Mr. CARROLL. Yes; I am yielding myself 2 minutes, unless another Senator wishes to speak on the subject. I think all that needs to be said has been said.

Mr. CLARK. Mr. President, will the Senator yield me 1 minute?

Mr. CARROLL. I yield 1 minute to the Senator from Pennsylvania.

Mr. CLARK. I hope Senators will vote to support the amendment. It is an important amendment, and we should give it careful attention. The argument that the amendment will result in the bill being sent to conference and not being passed is, to my way of thinking, specious.

I yield back the remainder of my time.

Mr. CARROLL. Mr. President, I yield the remainder of my time to the Senator from Idaho.

The PRESIDING OFFICER. The Senator yields 1 additional minute, his remaining time, to the Senator from Idaho.

Mr. CHURCH. Mr. President, I commend the distinguished Senator from Colorado for offering the amendment. I shall be disappointed if the Senate turns it down. The objective of the pending bill is to furnish legal relief to citizens who are found by the court, after a full adversarial proceeding, to have been systematically denied the right to vote. It appears to me to be a kind of travesty for the Senate, 185 years after the Declaration of Independence, and a full century after the Civil War, to require nearly 2 months to pass a bill of this character.

All that the Carroll amendment does is to apply an ancient rule of equity, that once the court has made such a finding, if the evidence before the judge, in a given case, is such as to demonstrate that it would be a futile thing to require the people aggrieved to go back to the local registrar, they need not do it.

The amendment accords with the principle that equity never requires a futile act. It is a sound and just amendment. The bill ought to be modified in this respect.

The PRESIDING OFFICER. The time of the Senator from Colorado has expired.

Mr. DIRKSEN. Mr. President, the pending amendment has been labored at great length.

The PRESIDING OFFICER. How much time does the Senator yield himself?

Mr. DIRKSEN. I yield myself 3 minutes. The Deputy Attorney General has already opposed it. Yesterday he sent me a memorandum, and he still opposes it. The Attorney General's office is the enforcing office for this whole bill, particularly the referee section. We would now say to the chief enforcement officer of this Government, if the amendment were adopted, "We are going to give you something that you do not want." He has made it abundantly clear that he does not want it. He said it was surplusage.

Well, the argument is made, if it is surplusage, it will not hurt.

Mr. President, even if language in a bill is surplusage, when it comes before the eyes of a judge, it is subject to interpretation. I remember when I took my first bar examination. I volunteered a great deal of information in that examination. At that time I learned from one of the professors a very compelling truth. He said, "Your answers were very good, but you decided to go on and volunteer things. And you volunteered things that were wrong. So we gave you a zero on the question."

I failed to pass that bar examination. That is what happens when we volunteer. If we put surplus language into the bill, it is language which a judge will interpret.

The Attorney General made one other point. There is equitable jurisdiction of the court. If we pinpoint one thing in the bill, will that be an implication to the court that insofar as this particular item is concerned we invoke an equitable doctrine, but as to the rest of the bill there will be some doubt that Congress intended that equitable principles ought to apply? That is the danger of adopting such an amendment.

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

Mr. DIRKSEN. No.

The PRESIDING OFFICER. The Senator from Illinois declines to yield.

Mr. DIRKSEN. The chief enforcement officer of the Government has stated that he does not want this language. He is the one who will enforce it. Congress ought to heed his expression in this matter.

So, Mr. President, I move to table the amendment.

The PRESIDING OFFICER. Does the Senator yield back the remainder of his time?

Mr. DIRKSEN. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Illinois makes a motion to table the Carroll amendment.

Mr. JOHNSON of Texas. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. MCCARTHY (when his name was called). On this vote I have a live pair with the Senator from Montana [Mr. MANSFIELD]. If he were present, he would vote "yea." If I were permitted to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. JOHNSON of Texas. I announce that the Senator from Montana [Mr. MANSFIELD] is absent on official business.

The Senator from Minnesota [Mr. HUMPHREY] and the Senator from Massachusetts [Mr. KENNEDY] are necessarily absent.

The Senator from Connecticut [Mr. DODD] is absent because of illness.

I further announce that if present and voting, the Senator from Connecticut [Mr. DODD], the Senator from Minnesota [Mr. HUMPHREY], and the Senator from Massachusetts [Mr. KENNEDY] would each vote "nay."

Mr. KUCHEL. I announce the Senator from Vermont [Mr. AIKEN] is detained on official business.

The result was announced—yeas 62, nays 32, as follows:

[No. 159]

YEAS—62

Allott	Eastland	McClellan
Bartlett	Ellender	McGee
Beall	Ervin	Martin
Bennett	Fong	Morton
Bible	Frear	Mundt
Bridges	Fulbright	Murray
Brunsdale	Goldwater	O'Mahoney
Bush	Green	Prouty
Butler	Hayden	Robertson
Byrd, Va.	Hickenlooper	Russell
Byrd, W. Va.	Hill	Saltonstall
Cannon	Holland	Schoeppel
Capehart	Hruska	Smathers
Carlson	Johnson, Tex.	Sparkman
Case, S. Dak.	Johnston, S.C.	Stennis
Chavez	Jordan	Talmadge
Cooper	Kefauver	Thurmond
Cotton	Kerr	Wiley
Curtis	Lausche	Williams, Del.
Dirksen	Long, Hawaii	Young, N. Dak.
Dworshak	Long, La.	

NAYS—32

Anderson	Hennings	Muskie
Carroll	Jackson	Pastore
Case, N.J.	Javits	Proxmire
Church	Keating	Randolph
Clark	Kuchel	Scott
Douglas	Lusk	Smith
Engle	McNamara	Symington
Gore	Magnuson	Williams, N.J.
Gruening	Monroney	Yarborough
Hart	Morse	Young, Ohio
Hartke	Moss	

NOT VOTING—6

Aiken	Humphrey	McCarthy
Dodd	Kennedy	Mansfield

So Mr. DIRKSEN's motion to lay Mr. CARROLL's amendment on the table was agreed to.

Mr. DIRKSEN. Mr. President, I move that the vote by which the amendment was laid on the table be reconsidered.

Mr. JOHNSON of Texas. Mr. President, I move to lay on the table the motion to reconsider.

The PRESIDING OFFICER (Mr. BIBLE in the chair). The question is on agreeing to the motion to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

Mr. DIRKSEN. Mr. President, I was about to ask the majority leader what he foresees for the next several hours or so in connection with the business of the Senate.

Mr. JOHNSON of Texas. Under the order entered on yesterday, the distinguished senior Senator from Louisiana [Mr. ELLENDER] is to be recognized at this time. I understand he is ready to make his address. At the conclusion of his address, I hope the Senate will vote on the motion, if the Senate is willing to do so, and if at that time the Senator from Illinois cares to move that the motion of the Senator from Louisiana be laid on the table.

Mr. DIRKSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Illinois will state it.

Mr. DIRKSEN. As I understand, the motion now before the Senate is to strike out title VI, the referee title of the bill. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DIRKSEN. It is to that motion that the Senator from Louisiana is about to address himself, is it?

The PRESIDING OFFICER. That is also correct.

Under the unanimous-consent agreement, the Senator from Louisiana [Mr. ELLENDER] is to be recognized at this time for 3 hours.

The Chair now recognizes the Senator from Louisiana.

Mr. ELLENDER. Mr. President, three or four Senators have asked me to yield for the making of insertions or brief statements. I ask unanimous consent that I may do so without losing my right to the floor.

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

Mr. McCLELLAN. Mr. President——

Mr. ELLENDER. Then, Mr. President, I yield first to the Senator from Arkansas [Mr. MCCLELLAN].

REMOVAL OF LIMITATION ON AMOUNT FOR SECRETARY OF AIR FORCE TO SETTLE CERTAIN CLAIMS AT LITTLE ROCK, ARK.

Mr. McCLELLAN. Mr. President, I ask unanimous consent, out of order, to introduce a bill, for appropriate reference, and to make some brief remarks regarding the bill.

The PRESIDING OFFICER. Without objection, the bill will be received and appropriately referred, and the Senator from Arkansas may proceed.

The bill (S. 3338) to remove the present $5,000 limitation which prevents the Secretary of the Air Force from settling certain claims arising out of the crash of a U.S. Air Force aircraft at Little Rock, Ark., introduced by Mr. MCCLELLAN, was received, read twice by its title, and referred to the Committee on the Judiciary.

Mr. McCLELLAN. Mr. President, 1 week ago, on March 31 at approximately 6 o'clock in the morning, a tremendous explosion occurred in the sky above the city of Little Rock, Ark. A B–47 jet bomber from the Little Rock Air Force Base, Strategic Air Command, had exploded in midair. It disintegrated, and the principal parts of it fell into three sections of that capital city. One section of town was struck by the nose of the plane, together with the front wheel; the fuselage fell in another; and the wing came down in yet another. Flaming debris was scattered over a wide area of the entire city.

The Air Force officials advise me that the known damage consists of:

Six homes totally destroyed.

Over 100 other homes damaged.

Twenty-five homes with major structural damage.

Fifty-two homes with minor structural damage.

Forty-one homes with window damage only.

Nine or ten places involving major landscape damage.

Twelve automobiles either destroyed or partially destroyed.

Mr. President, in addition to property damage, there were two civilian deaths—one, a 65-year-old married woman, the other, a 25-year-old man. There are seven known cases of minor injuries to persons, both white and colored. I am advised that the Air Force's estimate of the total amount of damage to persons and property is approximately $500,000.

Originally it was believed that this accident was caused by a midair collision between the B–47 jet and a privately-owned aircraft. As a result of this thinking, the FBI immediately assigned 20 agents to do a complete investigation at Little Rock. Approximately 10 hours later it was determined that the accident was caused by a midair explosion rather than a collision, and the FBI was called off the case. However, the Air Force has the benefit of the FBI investigations and interviews with the people of Little Rock, including those whose homes were damaged as well as those who sustained personal injury.

The Air Force officials also advise that the Little Rock police were extremely helpful in the investigation as to the damages. The police went from door to door, inquiring whether anyone had received injuries or whether property had been damaged. All of the investigative data collected by the Little Rock police has been made available to the Air Force and will be utilized to determine claimants and their damages in order that settlements may be made as promptly as is possible.

Immediately upon the flash report of the accident the Air Force opened a claims office in the city hall to help the people present claims, answer questions, and with the help of General McConnell, who set up an office in a local church, assured the people that everything possible would be done for them to alleviate their distress.

Mr. President, under existing law there is a $5,000 limitation on the amount which the Secretary of the Air Force can pay out in the settlement of any single damage claim. This limitation is imposed by section 2733 of title 10, United States Code. Because, Mr. President, the Air Force has available to it the information, police and FBI reports mentioned before, I am advised that it is now in a position to settle very quickly the claims that have arisen out of this very unfortunate occurrence.

There are, however, a substantial number of claims which indisputably are in excess of the $5,000 jurisdictional limitation on the Secretary of the Air Force. The only alternative for such claimants for relief is to file suit in a Federal district court under the Federal Tort Claims Act or request the passage of a private bill. All of us are aware of the crowded condition of our Federal court dockets, and that litigation is often a slow and time-consuming process. Something must be done, and done quickly Mr. President, to alleviate the suffering and distress of the citizens of Little Rock who have suffered most from this tragic incident.

It should be observed that the only question involved here is whether the claimant suffered injury or damage, and, if so, to what extent, because there could be no contributing cause on the

part of any claimant to the damage which may have been sustained.

Consequently, Mr. President, I am introducing, for appropriate reference, this bill, which will remove the $5,000 limitation on the Secretary in settling the damage claims to persons and property at Little Rock arising from this aircraft crash.

I have been advised that the Secretary of the Air Force and the Bureau of the Budget both look with favor on this bill that I am introducing. A direct precedent for it lies in Public Law 907 of the 84th Congress. That bill provided similar relief for the citizens of Minneapolis, Minn., who suffered losses and injuries as the result of military aircraft crashes there on June 5 and 9, 1956.

I assume the bill will be referred to the Judiciary Committee of the Senate, and I trust we can expedite action on it there, to the end that this authority may be granted and that those who suffered this tragedy and damage may be properly and fully compensated without any undue and prolonged delay.

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

Mr. McCLELLAN. I am happy to yield to the Senator from South Carolina.

Mr. JOHNSTON of South Carolina. I think there was a somewhat similar case in Texas. Was there not?

Mr. McCLELLAN. The Senator refers to the oil or gas explosion, I think.

Mr. JOHNSTON of South Carolina. That is right.

Mr. McCLELLAN. I am sure there is a precedent for this. I believe this action can be taken.

Mr. JOHNSTON of South Carolina. The proposal covers only this particular instance. Is that correct?

Mr. McCLELLAN. Yes.

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

Mr. McCLELLAN. I yield to the Senator from Florida.

Mr. HOLLAND. Of course, I have the deepest sympathy for the citizens of Little Rock, Ark., who have been so adversely affected. I think they should be quickly afforded the monetary relief to which they are entitled. But I want to call attention to the fact that I introduced in the 85th Congress a bill, S. 1066, to raise the limitation to $50,000. It was my understanding that the Air Force strongly desired it, but the Department of the Army, for some reason which I have never been able to understand, opposed it.

I am hoping that, in an effort to do justice not only to the victims of this great disaster, which encompassed so many, but also to those of smaller disasters, in terms of number of individuals affected, but who suffer just as gravely as a result of such disasters, the matter may be handled so that relief may be given to such victims.

In my own State there was a case where an entire family, except one, was destroyed, as a result of a similar accident. The survivor, a child of the family, still languishes and probably will never have his full health. That case had to be brought in court, and has been in court now, as I recall it, for about 2 years. The Department of Justice has not pushed it, in spite of much prodding from the Senators from Florida and the Representative from the district involved. The sole surviving individual has been suffering, and suffering intensely.

I hope the Judiciary Committee, in its wisdom, which is great, will appreciate the necessity for enacting general legislation which will enable the prompt handling of these matters.

I have the deepest sympathy for those who are involved in the disaster to which the Senator from Arkansas has referred. I want them to receive relief in the quickest possible way. I am not arising to oppose in any way the remedial legislation proposed by the Senator from Arkansas.

Mr. McCLELLAN. I thank the Senator.

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

Mr. McCLELLAN. I yield to my colleague from Arkansas.

Mr. FULBRIGHT. I wish to join the senior Senator from Arkansas in his request. I spoke to the majority leader about the matter. I think we will get his cooperation. I believe we have authority for such legislation.

I wish to express my deepest sympathy to the families of the victims of this most tragic accident. It was one of the most widespread, destructive tragedies I ever heard of. Certainly it is the worst that has happened in my State. It is another example of the great contributions which many of our citizens have to make in our defense efforts and the effort to secure this country.

I thank the distinguished senior Senator from Arkansas for introducing the bill. I shall do everything I can to assist him.

Mr. McCLELLAN. I hoped that the Senator would cosponsor it. I was unable to arrange it because of the parliamentary situation which exists.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that my name may be added as a cosponsor of the measure.

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

TRIBUTE TO SENATOR DIRKSEN

Mr. GOLDWATER. Mr. President, appearing in today's Washington Evening Star is an article by that eminent columnist, William S. White, entitled "A Recognition of Senator DIRKSEN."

The very first paragraph I think expresses the feelings, certainly, of the Republicans in this body, and, I suspect, all of the Democrats, also. I will read it:

If there were any real justice in politics—as, of course, there isn't—the Republicans would now be designating Senator EVERETT M. DIRKSEN as their legislative man of the year.

I wholeheartedly concur in that statement. I think we on this side of the aisle are extremely fortunate in having the dedicated services and hard work of this distinguished man. He has done something that other leaders of this party on the floor have not been able to do in years past; namely, he has held the Republicans together more effectively than anyone else in the few years I have been in this body.

I do not think there is a man in this body, either, whom the country can thank more for the ultimate enactment of a just, fair, and equitable civil rights bill. He has worked diligently, hard, and long on this bill, to the end that the country would have proper legislation.

In this, as in all other matters of legislation, and in all matters of his association with others, he has been a fair man and an honest man. His work, I suggest, has aided not only the Republican Party, but, more importantly, his work in this body has helped our country.

I wish to commend Mr. White for his foresight in recognizing Senator DIRKSEN and in dedicating his column to him. I wish to join him in his tribute, and to express my own.

Mr. President, I ask unanimous consent to have the article to which I made reference printed in the RECORD as a part of my remarks.

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

[From the Washington Evening Star, Apr. 6 1960]

A RECOGNITION OF SENATOR DIRKSEN—REPUBLICANS' LEGISLATIVE "MAN OF YEAR" LAUDED FOR RECORD AS MINORITY LEADER

(By William S. White)

If there were any real justice in politics—as, of course, there isn't—the Republicans would now be designating Senator EVERETT Mr. DIRKSEN as their legislative "Man of the Year."

He has now entered the last lap of his first session as the GOP Senate leader. Simple fairness compels this report, from a correspondent who once had no difficulty in restraining his admiration. This Senator is doing a good job, a responsible job, for his party and even for his country.

Senator DIRKSEN is actually a better floor leader than was either of his far more famous immediate predecessors, Senators Robert A. Taft and William F. Knowland.

Old cliches die hard, perhaps because a cliche usually becomes one only because it is based on truth. Senator DIRKSEN was long seen by most Washington observers as a man of few fixed convictions and many thousands of purplish words—an overripe Shakespearean actor tossing his graying locks and skipping nimbly about among the issues.

As a Member of the House of Representatives from Illinois, he had been an isolationist and then an internationalist and then an isolationist again through eight terms in Congress. When, in 1951, he came to the Senate this was the blunt but wide estimate: His promotion could be described as the Senate's loss and the House's gain.

Even in a body, the Senate, which relishes a good deal of what is called corn, EVERETT MCKINLEY DIRKSEN was considered to be quite too abundantly blessed with that commodity. On nearly any insider's list of those new Senators who were not going far, the name of EVERETT MCKINLEY DIRKSEN, of Illinois, would surely have led most, if not all, the rest.

Thus when last January the Senate Republicans set out to make Senator DIRKSEN their new leader there was much shaking of heads. Both Senators Taft and Knowland, whatever might have been said about them otherwise, had been leaders of extraordinary

strength of character. It was suggested, not too delicately, that this quality—strength of character—was notably absent in Senator DIRKSEN.

But what has since happened? The DIRKSEN who had so long been thought so weak began repeatedly to show undeniable strength, both in his convictions and his work. Soon the Senate, at least, was aware that the new GOP spokesman was an abler tactician than either Senator Taft or Senator Knowland. Moreover, once he had given his word, he stood with it as bravely as either of them ever did.

The plain truth today may seem surprising. Senator DIRKSEN has behaved with efficiency, with courage, with honor, with faithfulness to his partisan obligations but with a higher faithfulness to the interests of the United States of America.

The latest of many instances was in the Senate's civil rights fight. The Senator stood for a reasonable bill. Stoically he resisted all pressure from other Republicans for a punitive measure for which the South, of course, would have blamed the Democrats. He was unwilling to play that kind of politics with that kind of an issue—an issue involving the unity of the United States in a world of peril.

Were his detractors ever right in the past? Having been one of them, this columnist cannot with good taste attempt an answer.

But one thing is sure—either they were wrong all along or EVERETT MCKINLEY DIRKSEN is another living illustration of one of the saving things about the American political system. This is that men thrown into positions of high responsibilities have a remarkable capacity to grow up to those responsibilities and ably to discharge them in the showdown.

Such a man is EVERETT MCKINLEY DIRKSEN. And while the Republican Party may hardly pause this year to salute him, he has this anyhow: The awareness of the earned respect of one of the most acute judges of men in this world—the collective membership of the U.S. Senate.

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

Mr. ELLENDER. I yield to the Senator from California.

Mr. KUCHEL. Mr. President, I have the same gratification, which all of us on this side of the aisle, and I know Senators on the other side of the aisle, have on this occasion, when this distinguished newspaperman has once again commented favorably on the indefatigable devotion to duty which has characterized the minority leader in the U.S. Senate this year and last year.

On every occasion when the President of the United States has taken a position with respect to legislation and has asked consideration of it in the Congress, the leader for the administration has worked without stint, without minding the cost to himself, in advancing those legislative requests which have come from the Chief Executive of our country.

To Senator GOLDWATER I say I am happy to join in the sentiments he has indicated and to see that the record once again is emblazoned with the great abilities which the distinguished Senator from Illinois, EVERETT DIRKSEN, has demonstrated as a Senator, most important as an American, and also, I can say for this side of the aisle, as a dedicated Republican. We all salute him on this occasion.

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

Mr. ELLENDER. I yield to the Senator from Arkansas.

NUCLEAR TEST SUSPENSION TREATY

Mr. FULBRIGHT. Mr. President, in recent weeks there has been speculation about the role of the Senate, should there be a successful culmination to present test suspension negotiations. It is recalled that the Constitution endows the Senate with a unique role in the field of foreign policy. Although we cannot appoint an Ambassador, we can deny the confirmation of his appointment. Although the Senate cannot negotiate a treaty, it can reject a treaty. The skeleton of the Versailles Treaty which died in the Senate has been hauled from the closet. The administration has been advised by some prominent publicists to woo the Senate in general and the Foreign Relations Committee in particular, else its carefully negotiated treaties may fail.

Our somewhat negative role as a treatymaking institution has led to speculation in the press, comment in the Senate, and concern at the other end of Pennsylvania Avenue.

How is the Senate to be brought into the negotiating process so as to preclude the possibility of Senate rejection of a reasonable treaty? Enhancing this concern is the fact that the Senate is controlled by Democrats while the Executive is Republican and, therefore, partisan considerations may influence action on any treaty. Furthermore, it has been suggested that past differences between the administration and the chairman of the Foreign Relations Committee as an individual bode ill for future treaties on controversial subjects.

On these points, I, as that chairman, wish to make my position clear.

In the first place, there has been Senate participation in the negotiating process. Members of the Senate from the Joint Committee on Atomic Energy served as observers during early stages of the test suspension negotiations. Now that negotiations have moved from the atomic energy technical phases to the international political arena, I anticipate that if progress is made in the weeks ahead, members of the Committee on Foreign Relations, and perhaps members of other committees with direct interests, will be invited by the President to work with the Executive to the end that their views will be considered by the President during the negotiation of the treaty and to assure that any treaty signed would reflect those views. I am sure there would be no reluctance in this body, should the President believe any Member of the Senate could serve in a useful role in these negotiations.

Second, the fact that the Senate is controlled by a Democratic majority while the Executive is Republican should not, in my view, make one iota of difference. We have all sworn to support and defend the Constitution against all enemies, foreign and domestic. Every member of the Committee on Foreign Relations, I am sure, desires to avoid partisanship in dealing with any issue of foreign policy. In all my years as a member of the committee, I recall only one instance when the committee split along partisan lines on a relatively minor matter. We have had our differences, but those differences have been matters of principle and judgment, not of politics.

The same is true of the Senate as a whole in foreign policy matters. Should it be possible to conclude a reasonable test suspension treaty, I know it will receive nonpartisan consideration by this body.

Finally, on this point, let me note that while I have had vigorous differences of opinion in the past with some aspects of this administration's conduct of our foreign policy, those differences have been based on substance, not on partisanship.

I have every desire to work closely with this administration, or any other, in the promotion of our national interests. This can be done if every individual judges our foreign policies on their merits, and not on the basis of political or partisan advantage, an advantage which is ephemeral at best, and highly dangerous to the Nation at worst.

There have been comments to the effect that should a treaty be signed at the summit, it could not be expected that the Senate could act on such a treaty prior to adjournment, which is assumed to be in early July. This is not necessarily true.

Should a treaty be signed in mid-May, it could be acted upon by the Senate by early July. Indeed, I should think there might be certain advantages to early action, should a treaty be successfully negotiated. Consideration by the Senate prior to the election would preclude the possibility of such an important subject becoming an issue in the campaign.

It would give our new President, whoever he may be, a firm basis upon which to continue our national efforts to achieve a degree of disarmament with adequate inspection and control. It would show to the world that our democratic system is able to deal promptly with issues of such transcendent importance as the limitation of armaments or the suspension of atmospheric nuclear tests.

In conclusion, I hope the fact that I have commented on the negotiations now under way and the possibility of concluding a test-ban treaty will not be interpreted as a naive estimate on my part that a treaty is ready for signature, and that all that remains to be done is to affix the seal.

Obviously, there are many difficult problems facing the negotiators. Some of those problems will probably be unresolved until the time of the summit conference, and only then will we know whether the Soviet Union is serious in desiring a treaty which might become the first realistic step toward a halt in the atomic and armaments race. Until that time, we can only hope that the Soviet Union and its leaders have at last realized that the world as we have

known it is in dire peril unless we can begin now to bring atomic weapons under international control.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Maurer, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10743) making supplemental appropriations for the fiscal year ending June 30, 1960, and for other purposes; that the House receded from its disagreement to the amendments of the Senate numbered 6, 33, 34, 35, 36, 37, 38, 39, and 45 to the bill, and concurred therein, and that the House receded from its disagreement to the amendments of the Senate numbered 4, 8, 15, 19, and 40 to the bill, and concurred therein severally with an amendment, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the President pro tempore:

S. 231. An act for the relief of Patricia Crouse Bredee; and

H.R. 2310. An act for the relief of Hoo W. Yuey and his dependent children.

CIVIL RIGHTS ACT OF 1960

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

Mr. ELLENDER. Mr. President, when the Senate recessed this morning I had completed one of the three phases of the address which I have prepared, covering the history of suffrage in the United States.

During the initial portion of my address I had traced the development of the suffrage clauses of the Constitution through the constitutional debates, the ratifying debates of the Thirteen Original States, and through the subsequent procedures which resulted in the submission to, and the ratification by, the States of the 15th amendment, the amendment providing for the direct election of U.S. Senators and the so-called women's suffrage amendment.

Mr. President, I am undertaking to trace the historical development of these elections in order to demonstrate two major points to the Senate which are most pertinent in the light of the pending bill.

First, since this measure would, as a practical matter, permit the Federal Government to fix and determine the qualifications of electors, it dilutes, erodes, and, in a large measure, destroys, a right which the original States and the Founding Fathers exercised great diligence in preserving, namely, the right of the States to fix the qualifications of electors, not only insofar as State or local offices might be concerned, but as to Federal offices, as well.

Second, as the constitutional debates and the histories of subsequent developments so amply show, the very same power which is sought to be vested in the Federal Government under the pending bill, was thoroughly considered during times past and, on each occasion, was rejected.

At this time, Mr. President, I wish to discuss point II of this study of the history of suffrage in the United States, that dealing with various constitutional and legislative enactments by the Original Thirteen Colonies with regard to the franchise.

Of course, the basis upon which any study of suffrage must be founded involves the constitutional provisions in the various States. Altogether there have been about 120 constitutions drawn up and put in operation since the Declaration of Independence, and the suffrage provisions in these constitutions must be the structural work on which a history of suffrage may be built. They indicate the actual turning points and show in unembellished outline form the trend of thought on the matter of suffrage. But the question at once occurs, Is it necessary to take account of the acts of State legislatures and add statutes to the outline structure? However, a study of the constitutional law on the subject and a survey of statutory acts concerning suffrage lead to the conclusion that the legislative acts are of scarcely any importance and do not need to be added to the constitutional provisions in order to form an adequate basis for a history of suffrage. Writers on constitutional law and the law of elections dispel all scruples on this matter. The footnote, M. H. Throop "Law of Public Officers," page 129, says:

> The power of the State to regulate the elective franchise is exercised universally by means of provisions in the constitution of each State.

He goes on to point out that there is a very small field left for statute law. Acts are sure to be declared void if they prescribe further qualifications than the Constitution contains, or if they grant suffrage to any person who does not possess the qualifications stipulated for. However, requirements not in conflict with the spirit of the Constitution may be superadded, such as terms of residence in election districts, exclusion of certain public officers from the suffrage, and so forth. But anything the legislature may do is likely to be of small importance. But it occasionally happens that the Constitution permits the legislature to use discretion in the matter of enlarging the suffrage. Thus in recent years legislatures have been permitted to levy poll taxes as a prerequisite to voting and to impose literacy tests. But authority for these must always be positively found in the Constitution itself.

First, New Hampshire: In 1776, at the time of the Declaration of Independence, New Hampshire's Congress drew up a constitution. It is said that congress was chosen and appointed by the free suffrages of the people of said colony—see Thorpe No. 4, "Charters and Constitutions," page 2451.

This was the first constitution framed by an American Commonwealth. In 1784, a complete constitution was ratified for New Hampshire.

The bill of rights, contained in part first of the 1784 constitution, proclaimed the following:

> ART. XI. All elections ought to be free, and every inhabitant of the State having the proper qualifications has equal right to elect and be elected into office.

In 1792 the Constitution of 1784 was revised and amended, but article XI of part first remained unchanged until 1902, when it was amended to waive the literacy requirement for persons with physical disabilities and to impose a modified form of the "grandfather clause":

> ART. XI. All elections ought to be free and every inhabitant of the State having the proper qualifications has equal right to elect and be elected into office; but no person shall have the right to vote, or be eligible to office under the constitution of this State, who shall not be able to read the constitution in the English language, and to write, provided, however, that this provision shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any person who shall be 60 years of age or upwards on the first day of January, A.D. 1904.

In 1912 article XI of part first was again amended to deny the vote to persons convicted of a specified category of crimes:

> ARTICLE XI
>
> Elections and elective franchise: All elections ought to be free, and every inhabitant of the State, having the proper qualifications, has equal right to elect, and be elected, into office; but no person shall have the right to vote or be eligible to office under the constitution of this State who shall not be able to read the constitution in the English language and to write: *Provided, however,* That this provision shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any person who shall be 60 years of age or upwards on the first day of January, A.D. 1904: *And provided further,* That no person shall have the right to vote, or be eligible to office under the constitution of this State who shall have been convicted of treason, bribery, or any willful violation of the election laws of this State, or of the United States; but the Supreme Court may, on notice to the Attorney General restore the privileges of an elector to any person who may have forfeited them by conviction of such offenses.

In 1942, an amendment to article XI of part 1 gave the general court authority to promulgate absentee voting procedures, so that the article now reads:

> ARTICLE XI
>
> Elections and elective franchise: All elections ought to be free, and every inhabitant of the State, having the proper qualifications, has equal right to elect, and be elected, into office; but no person shall have the right to vote or be eligible to office under the constitution of this State who shall not be able to read the constitution in the English language and to write: *Provided, however,* That this provision shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote,

nor to any person who shall be 60 years of age or upwards on the first day of January A.D. 1904: *And provided further*, That no person shall have the right to vote, or be eligible to office under the constitution of this State who shall have been convicted of treason, bribery, or any willful violation of the election laws of this State, or of the United States; but the Supreme Court may, on notice to the Attorney General restore the privileges of an elector to any person who may have forfeited them by conviction of such offenses. The general court shall have power to provide by law for voting by qualified voters who at the time of biennial or State elections or of city elections are absent from the city or town of which they are inhabitants, or who by reason of physical disability are unable to vote in person, in the choice of any officer or officers to be elected or upon any question submitted at such election.

As I pointed out yesterday, and as I hope to point out today, every State reserves to itself the right to declare who shall and who shall not vote. The States themselves define the qualifications. As I pointed out yesterday, some of the Original Colonies even prevented Catholics from voting. New York prevented Jews from voting in the early days. It was a sacred right that was maintained by the States through the years. Every change that has ever been made, as I shall indicate, in the constitutions of the various States, and statutes passed in pursuance of such constitutional provisions jealously guarded the right of the States to say who shall and who shall not vote.

Mr. President, as I pointed out on several occasions yesterday during the course of the debate, and previously, except for the fact that the States of this Union, particularly the Original Thirteen States, had retained the right to declare who shall or who shall not vote, we would not have a Federal Constitution today. The States jealously guarded the right to define who shall and who shall not vote.

Mr. TALMADGE. Mr. President, will the distinguished Senator from Louisiana yield for a question at this point?

Mr. ELLENDER. I yield.

Mr. TALMADGE. Is it not true that the question of voting qualifications was one of the most divisive matters in the Constitutional Convention, and that it threatened to divide and destroy the Constitutional Convention; and that a compromise was finally worked out by which the Constitution stated specifically that the States themselves would determine the qualifications of those who should vote?

Mr. ELLENDER. The Senator is eminently correct. As I pointed out, when the States of the Union, even the great State of Georgia, ratified the Constitution, they offered or suggested amendments to the ratification of the Constitution, particularly with respect to section 4 of article I, dealing with the times, places, and manner of holding elections.

The States guarded that right very jealously. Except for the fact that it was made plain that the States would retain that right, there would have been no Constitution.

Mr. TALMADGE. Mr. President, will the Senator from Louisiana yield further?

Mr. ELLENDER. I yield.

Mr. TALMADGE. Is it not true that the Constitution plainly and clearly states, without any ambiguity, that those who are qualified to vote for the most numerous branch of the legislatures in the respective States are also qualified to vote for Federal officers?

Mr. ELLENDER. The Senator is correct.

Mr. TALMADGE. I thank the distinguished Senator, and I congratulate him on an excellent speech.

Mr. ELLENDER. I thank the Senator.

The qualifications of electors are fully set out in the original 1784 Constitution, in part second:

The Senate shall be the first branch of the legislature: and the senators shall be chosen in the following manner, viz. Every male inhabitant of each town and parish with town privileges in the several counties in this State, of 21 years of age and upward, paying for himself a poll tax, shall have a right at the annual or other meetings of the inhabitants of said towns and parishes, to be duly warned and holden annually forever in the month of March; to vote in the town or parish wherein he dwells, for the senators in the county or district whereof he is a member.

And every person qualified as the Constitution provides, shall be considered an inhabitant for the purpose of electing and being elected into any office or place within this State, in that town, parish, and plantation where he dwelleth and hath his home.

The selectmen of the several towns and parishes aforesaid, shall, during the choice of Senators, preside at such meetings impartially, and shall receive the votes of all the inhabitants of such towns and parishes present and qualified to vote for Senators, and shall sort and count the same in the meeting, and in the presence of the town clerk, who shall make a fair record in the presence of the selectmen, and in open meeting, of the name of every person voted for, and the number of votes against his name; and a fair copy of this record shall be attested by the selectmen and town clerk; and shall be sealed up and directed to the secretary of the state, with a superscription expressing the purport thereof, and delivered by said clerk to the sheriff of the county in which such town or parish lies, 30 days at least before the first Wednesday of June; and the sheriff of each county, or his deputy, shall deliver all such certificates by him received, into the secretary's office, 17 days at least, before the first Wednesday of June.

And the inhabitants of plantations and places unincorporated, qualified as this constitution provides, who are or shall be required to assess taxes upon themselves toward the support of government, or shall be taxed therefor, shall have the same privilege of voting for Senators in the plantations and places wherein they reside, as the inhabitants of the respective towns and parishes aforesaid have. And the meetings of such plantations and places for that purpose, shall be holden annually in the month of March, at such places respectively therein, as the assessors thereof shall direct; which assessors shall have like authority for notifying the electors, collecting and returning the votes, as the selectmen and town clerks have in their several towns by this constitution (Thorpe, 4 supra, beginning p. 2459, par. top p. 2460).

All persons qualified to vote in the election of Senators shall be entitled to vote within the town, district, parish, or place where they dwell in the choice of Representatives. Every Member of the House of Representatives shall be chosen by ballot; and for 2 years at least next preceding his election shall have been an inhabitant of this State, shall have an estate within the town, parish, or place which he may be chosen to represent, of the value of 100 pounds, one-half of which to be a freehold, whereof he is seized in his own right; shall be at the time of his election an inhabitant of the town, parish, or place he may be chosen to represent; shall be of the Protestant religion; and shall cease to represent such town, parish, or place immediately on his ceasing to be qualified as aforesaid (Thorpe, 4, supra, last paragraph p. 2461 through second line top p. 2462).

In 1792 this was modified somewhat, and the section numbered XXVIII.

SEC. XXVIII. The Senate shall be the first branch of the Legislature, and the Senators shall be chosen in the following manner, viz: Every male inhabitant of each town and parish with town privileges, and places unincorporated, in this State, of 21 years of age and upward, excepting paupers and persons excused from paying taxes at their own request, shall have a right, at the annual or other meeting of the inhabitants of said towns and parishes, to be duly warned and holden annually forever in the month of March, to vote in the town or parish wherein he dwells for the Senator in the district whereof he is a member (Thorpe, 4, supra, p. 2478, sec. XXVIII).

The 1902 revisions and alterations to the 1784 Constitution changed the time of holding elections for Senators to biennially and the month of election to November, as compared to March under the 1784 Constitution; also its number within part 2 was changed to article 27:

ARTICLE 27

The Senate shall be the first branch of the Legislature, and the Senators shall be chosen in the following manner, viz: Every male inhabitant of each town, and parish with town privileges, and places unincorporated, in this State, of 21 years of age and upward, excepting paupers and persons excused from paying taxes at their own request, shall have a right, at the biennial or other meetings of the inhabitants of said towns and parishes, to be duly warned and holden biennially, forever, in the month of November, to vote, in the town or parish wherein he dwells, for the Senator in the district whereof he is a member.

The present version of the 1784 Constitution is identical with the 1902 version with respect to qualifications of electors for Senators, except that its number within part 2 has been changed back to article 28:

ARTICLE 28

Senators; how and by whom chosen; right of suffrage: The Senate shall be the first branch of the Legislature; and the Senators shall be chosen in the following manner, viz: Every male inhabitant of each town, and parish with town privileges, and places unincorporated, in this State, of 21 years of age and upward, excepting paupers and persons excused from paying taxes at their own request, shall have a right, at the biennial or other meetings of the inhabitants of said towns and parishes, to be duly warned and holden biennially, forever, in the month of November, to vote in the town or parish wherein he dwells, for the Senator in the district whereof he is a member.

In the original 1784 Constitution it was provided that the qualifications of elec-

tors for Representatives should be the same as the qualifications of electors for Senators:

All persons qualified to vote in the election of Senators shall be entitled to vote, within the town, district, parish, or place where they dwell, in the choice of Representatives.

The above provision remains unchanged in the current version of the 1784 Constitution, appearing today in part second as article 13:

ARTICLE 13

Qualifications of electors: All persons, qualified to vote in the election of Senators, shall be entitled to vote, within the district where they dwell, in the choice of Representatives.

(NOTE.—The phrase "town, district, parish, or place" was shortened to "district" in the engrossed copy of 1793, apparently without authority.)

Chafee sets out the qualifications in summarized form in his report:

Who may vote: Persons who have resided in the town 6 months and have paid all taxes assessed during the preceding year. Women are liable to tax.

Registration: No person shall vote whose name is not on the check list unless it was omitted by mistake and his right to vote was known by the supervisors when list was made.

Need not be renewed by voters who voted at the preceding election. Persons voting at the primary need not reregister for the following general election.

May be effected—how: By personal appearance before the supervisors.

When: (1) In Claremont and Newport last session October 31 when list is revised.

(2) In towns with more than 600 voters, supervisors are in session October 27, November 2, and additional days if necessary.

Absent voting: Is permitted only in presidential elections. Apply to city or town clerk during the 30 days before the election on a blank obtained from secretary of state, city, or town clerk. (Chafee, "Summary of General Election Laws of the United States.")

New Hampshire was one of the first four States to set up a tax payment as the sole qualification, omitting the requirement of owning property. It is also of passing interest to note that while almost all States require an elector to be a citizen, New Hampshire clings to the ancient word "inhabitant." However, the meaning probably is not changed. Also New Hampshire was one of the first to require the educational test, namely, that a voter must read and write English. Also, New Hampshire was one of the six States which never excluded the Negro—see Porter, "History of Suffrage in the United States," page 90.

Delaware was chartered in 1701. At this early date the State had assumed control over the qualifications of electors. In article II there was this provision:

And that the qualifications of electors and elected, and all other matters and things relating to elections of representatives to serve in assemblies, though not herein particularly expressed, shall be and remain as by a law of this government made at Newcastle, in the year 1700, entitled "An act to ascertain the number of members of assembly and to regulate the elections." (See Thorpe, I, supra, p. 559.)

In 1776 the Delaware Constitution employed the "property test," then quite a general one.

ARTICLE 3

One of the branches of the legislature shall be called "the house of assembly," and shall consist of seven representatives to be chosen for each county annually of such persons as are freeholders of the same.

ARTICLE 4

The other branch shall be called "the council," and consist of nine members; three to be chosen for each county at the time of the first election of the assembly, who shall be freeholders of the county for which they are chosen, and be upward of 25 years of age.

ARTICLE 5

The right of suffrage in the election of members for both houses shall remain as exercised by law at present; and each house shall choose its own speaker, appoint its own officers, judge of the qualifications and elections of its own members, settle its own rules of proceedings, and direct writs of election for supplying intermediate vacancies. (Thorpe, I, supra, p. 562, arts. 3 and 4, through words "25 years of age"; also art. 5, p. 563, through sentence ending intermediate vacancies.)

In 1792, Delaware, in convention at Newcastle, drew up a new constitution. They provided:

SECTION 1. All elections of Governor, Senators, and Representatives shall be by ballot; and in such elections every white free man of the age of 21 years, having resided in the State 2 years next before the election, and within that time paid a State or county tax, which shall have been assessed at least 6 months before the election, shall enjoy the right of an elector; and the sons of persons so qualified shall, between the ages of 21 and 22 years, be entitled to vote, although they shall not have paid taxes.

SEC. 2. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from them (Thorpe I, supra, art. IV, p. 574).

We see here the departure from the property test, which was replaced by the payment of a tax. In 1831 Delaware again changed its constitution:

SECTION 1. All elections for Governor, Senators, Representatives, sheriffs, and coroners shall be held on the second Tuesday of November, and be by ballot; and in such elections every free white male citizen of the age of 22 years or upward, having resided in the State 1 year next before the election, and the last month thereof in the county where he offers to vote, and having within 2 years next before the election paid a county tax, which shall have been assessed at least 6 months before the election, shall enjoy the right of an elector; and every free white male citizen of the age of 21 years, and under the age of 22 years, having resided as aforesaid, shall be entitled to vote without payment of any tax: *Provided*, That no person in the military, naval, or marine service of the United States shall be considered as acquiring a residence in this State, by being stationed in any garrison, barrack, or military or naval place or station within this State; and no idiot, or insane person, or pauper, or person convicted of a crime deemed by law felony, shall enjoy the right of an elector; and that the legislature may impose the forfeiture of the right of suffrage as a punishment for crime.

SEC. 2. Electors shall in all cases except treason, felony, or breach of the peace, be privileged from an arrest during their attendance at elections, and in going to and returning from them (Thorpe I, supra, art. IV, p. 589).

It is interesting to note the variations in all the State laws. A mere reading of them shows their vital differences. Each State has suited its own peculiar problems and citizenry, perhaps even its own geographical position. This is entirely proper and to be expected, contrary to the uniformity proposed here to be imposed by unconstitutional legislation.

In 1897 there was another Delaware constitution, providing for the choosing of Representatives, among others, by qualified electors. While the various bills of rights always provide that elections are to be free and equal, it has long been accepted, as stated by many whom I have quoted heretofore, and as shown by decisions which I shall discuss later, that the right to vote is a privilege rather than an absolute right, which must be exercised in accordance with certain regulations set up by each State. In 1897 Delaware ruled:

ARTICLE 5

SECTION 1. The general election shall be held biennially on the Tuesday next after the first Monday in the month of November, and shall be by ballot; but the general assembly may by law prescribe the means, methods, and instruments of voting so as best to secure secrecy and the independence of the voter, preserve the freedom and purity of elections and prevent fraud, corruption, and intimidation thereat.

SEC. 2. Every male citizen of this State of the age of 21 years who shall have been a resident thereof 1 year next preceding an election, and for the last 3 months a resident of the county, and for the last 30 days a resident of the hundred or election district in which he may offer to vote, and in which he shall have been duly registered as hereinafter provided for, shall be entitled to vote at such election in the hundred or election district of which he shall at the time be a resident, and in which he shall be registered, for all officers that now are or hereafter may be elected by the people and upon all questions which may be submitted to the vote of the people: *Provided, however*, That no person who shall attain the age of 21 years after the 1st day of January, in the year of our Lord 1900, or after that date shall become a citizen of the United States, shall have the right to vote unless he shall be able to read this constitution in the English language and write his name; but these requirements shall not apply to any person who by reason of physical disability shall be unable to comply therewith: *And provided also*, That no person in the military, naval, or marine service of the United States shall be considered as acquiring a residence in this State, by being stationed in any garrison, barrack, or military or naval place or station within this State; and no idiot or insane person, pauper, or person convicted of a crime deemed by law felony, or incapacitated under the provisions of this constitution from voting, shall enjoy the right of an elector; and the general assembly may impose the forfeiture of the right of suffrage as a punishment for crime (Thorpe I, supra, p. 620, secs. 1, 2, of art. V).

Here a new refinement is seen—the "education test" is coming in at the end of the century. These are the prevailing qualifications today.

Summarizing the qualifications for electors, plus certain administrative provisions concerning soldiers and absentees, Chafee furnishes the following:

Who may vote: Persons who have resided in the State 1 year, in the county 3 months, and the election district 30 days.

Residents who leave to enter the Federal service or are temporarily absent because of the nature of their business.

Registration: General registration, 1940. Permanent as long as voter retains qualifications.

May be effected: How—In person only, before registrars of the election district. When—1 day each week in April, May, and June. Board gives notice of days and hours.

Supplementary registration before registrar August 13 to October 17.

Absent voting: Civilian—The constitutionality of voting by mail is pending in the Supreme Court; nevertheless, the legislature at its last session passed a vote-by-mail law.

Any qualified elector absent from the State or election district, in Federal or State employ, or because of the nature of his work or business, may vote by mail at any general election. Apply to the clerk of peace not more than 20 nor less than 3 days prior to election for official ballot on form furnished by the clerk. The ballot will be accompanied by full instructions.

Armed Forces: An election is held at the quarters of the commanding officer of each camp. The Governor sends two persons to deliver the necessary supplies, including the ballots. They collect and return the votes and all equipment at the close of the election to the State (Delaware, Chaffee report).

SEC. 3. No person who shall receive or accept, or offer to receive or accept, or shall pay, transfer, or deliver, or offer or promise to pay, transfer or deliver, or shall contribute, or offer or promise to contribute to another, to be paid or used, any money or other valuable thing as a compensation, inducement or reward for the registering or abstaining from registering of anyone qualified to register, or for the giving or withholding, or in any manner influencing the giving or withholding, a vote at any general or special or municipal election in this State, shall vote at such election; and upon challenge for any of said causes the person so challenged before the officers authorized for that purpose shall receive his vote, shall swear or affirm before such officers that he has not received or accepted, or offered to receive or accept, or paid, transferred or delivered, or offered or promised to pay, transfer or deliver, or contributed, or offered or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation, inducement or reward for the registering or abstaining from registering of anyone qualified to register, or for the giving or withholding, or in any manner influencing the giving or withholding, a vote at such election.

Such oath or affirmation shall be conclusive evidence to the election officers of the truth of such oath or affirmation; but if any such oath or affirmation shall be false, the person making the same shall be guilty of perjury, and no conviction thereof shall bar any prosecution under section 8 of this article.

SEC. 4. The general assembly shall enact uniform laws for the registration of voters in this State entitled to vote under this article, which registration shall be conclusive evidence to the election officers of the right of every person so registered to vote at any general election while his or her name shall remain on the list of registered voters, and who is not at the time disqualified under the provisions of section 3 of this article; and no person shall vote at such general election whose name does not at that time appear in said list of registered voters.

There shall be at least 2 registration days in a period commencing not more than 120, nor less than 60 days before, and ending not more than 20 days, nor less than 10 days before, each general election, on which registration days persons whose names are not on the list of registered voters established by law for such election, may apply for registration, and on which registration days applications may be made to strike from the said registration list names of persons on said list who are not eligible to vote at such election: *Provided, however,* That such registration may be corrected as hereinafter provided at any time prior to the day of holding the election.

From the decision of the registration officers granting or refusing registration, or striking or refusing to strike a name or names from the registration list, any person interested, or any registration officer, may appeal to the resident associate judge of the county, or in case of his disability or absence from the county, to any Judge entitled to sit in the Supreme Court, whose determination shall be final; and he shall have power to order any name improperly omitted from the said registry to be placed thereon, and any name improperly appearing on the said registry to be stricken therefrom, and any name appearing on the said registry, in any manner incorrect, to be corrected, and to make and enforce all necessary orders in the premises for the correction of the said registry. Registration shall be a prerequisite for voting only at general elections, at which representatives to the general assembly shall be chosen, unless the general assembly shall otherwise provide by law.

The existing laws in reference to the registration of voters, so far as consistent with the provisions of this article, shall continue in force until the general assembly shall otherwise provide (amended 34 Del. Laws, ch. 1, approved Mar. 2, 1925).

SEC. 4A. The general assembly shall enact general laws providing that any qualified elector of this State, duly registered, who shall be unable to appear to cast his or her ballot at any general election at the regular polling place of the election district in which he or she is registered, either because of being in the public service of the United States or of this State, or because of the nature of his or her business or occupation, or because of his or her sickness or physical disability, may cast a ballot at such general election to be counted in such election district (added 44 Del. Laws, ch. 1 (1943), approval not required).

SEC. 4B. The general assembly shall enact uniform laws for the registration of voters of this State entitled to vote under this article who are temporarily absent therefrom and in the Armed Forces or merchant marine of the United States, or retainers or persons accompanying or serving therewith, or who are absent from the State because of illness or injury received while serving in any such capacity, upon application in person or in writing (added 46 Del. Laws, ch. 325 (1947), no approval date).

SEC. 5. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest, during their attendance at elections, and in going to and returning from them (Delaware Code Annotated, pp. 289, 290, 291, 293, 294).

The problems each State has had to cope with can be seen by the nature of its laws concerning qualifications. Delaware was one of the first States to lengthen the period of residence required The reason was increased immigration, which was creating an alien problem. Such a problem would not and did not exist in many other States. Likewise, Delaware was one of the first States to allow women to participate in school elections, a phase which preceded women's right to vote generally. In that connection, I refer to McCulloch, "Suffrage and Its Problems," pages 38 and 126.

Pennsylvania was chartered as a province in 1681. It is notable that even in that original instrument some consideration of elections and of who could vote was shown. In speaking of the power of William Penn to make laws, and so forth, it says:

According to their best discretions, by and with the advice, assent, and approbation of the freemen of the said country, or the greater part of them, or of their delegates or deputies—

And so forth. Here I refer to 5 Thorpe, supra, page 3037.

Further election laws are found in Penn's "Charter of Liberties," 1682, as follows:

2. That the freemen of the said province on the 20th day of the 12th month which shall be in this present year 1682 meet and assemble in some fit place of which timely notice shall be beforehand given by the Governor or his deputies and then and there shall choose of themselves 72 persons of most note for their wisdom, virtue, and ability who shall meet on the 10th day of the 1st month next ensuing and always be called and act as the provincial council of said province (see 5 Thorpe, p. 3048, par. 2).

A similar provision was in the frame of the government of Pennsylvania. See 5 Thorpe, supra, page 3055. Furthermore, we find there this provision:

III. That all elections of members, or representatives of the people and freemen of the province of Pennsylvania to serve in provincial council, or general assembly, to be held within the said province, shall be free and voluntary: and that the elector, that shall receive any reward or gift, in meat, drink, moneys, or otherwise, shall forfeit his right to elect; and such person as shall directly or indirectly give, promise, or bestow any such reward as aforesaid, to be elected, shall forfeit his election, and be thereby incapable to serve as aforesaid: and the provincial council and general assembly shall be the sole judges of the regularity, or irregularity of the elections of their own respective members (see 5 Thorpe, supra, p. 3060, art. III).

Here we see, in varied form, a provision similar to the bribery prohibitions of today.

The following provisions are found in the frame of government of 1696:

For the electing of which representatives, it shall and may be lawful to and for all the freemen of this province and territory aforesaid, to meet together on the 10th day of the 1st month yearly hereafter, in the most convenient and usual place for election, within the respective counties, then and there to choose their said representatives as aforesaid, who shall meet on the 10th day of the 3d month yearly, in the capital town of the said province, unless the Governor and council shall think fit to appoint another place.

And, to the end it may be known who those are, in this province and territories, who ought to have right of, or to be deemed freemen, to choose, or be chosen, to serve in council and assembly, as aforesaid, be it enacted by the authority aforesaid, that no inhabitant of this province or territories, shall have right of electing, or being elected as aforesaid, unless they be free denizens of this government, and are of the age of 21 years, or upwards, and have 50 acres of land, 10 acres whereof being seated and cleared, or be otherwise worth 50 pounds, lawful money of this government, clear estate, and have been resident within this government for the space of 2 years next before such election (see Thorpe, p. 3071, line 18).

There is also a provision that any elector who receives a reward for giving his vote shall forfeit his vote. See 5 Thorpe, supra, page 3073.

The constitution of Pennsylvania in 1776 was established by general convention in Philadelphia. In the declaration of rights thereof is the following provision:

VII. That all elections ought to be free; and that all freemen having a sufficient evident common interest with and attachment to the community, have a right to elect officers, or to be elected into office (see 5 Thorpe, supra, p. 3083).

What constitutes an "evident common interest" is defined as follows:

SEC. 5. The freemen of this commonwealth and their sons shall be trained and armed for its deference under such regulations, restrictions, and exceptions as the general assembly shall by law direct, preserving always to the people the right of choosing their colonels and all commissioned officers under that rank, in such manner and as often as by the said laws shall be directed (see 5 Thorpe, supra, p. 3084, sec. 5).

In 1790, another constitution was framed. Article III provides as follows:

SECTION 1. In elections by the citizens, every freeman of the age of 21 years, having resided in the State 2 years next before the election, and within that time paid a State or county tax, which shall have been assessed at least 6 months before the election, shall enjoy the rights of an elector: *Provided*, That the sons of persons qualified as aforesaid, between the ages of 21 and 22 years, shall be entitled to vote, although they shall not have paid taxes.

SEC. 2. All elections shall be by ballot, except those by persons in their representative capacities, who shall vote viva voce.

SEC. 3. Electors shall, in all cases except treason, felony, and breach or surety of the peace, be privileged from arrest during their attendance on elections, and in going to and returning from them (see 5 Thorpe, supra, p. 3096, art. III).

In 1838 a new Constitution was ratified by a close margin. Article III thereof was:

SECTION 1. In elections by the citizens, every white freeman of the age of 21 years, having resided in this State 1 year, and in the election district where he offers to vote 10 days immediately preceding such election, and within 2 years paid a State or county tax, which shall have been assessed at least 10 days before the election, shall enjoy the rights of an elector. But a citizen of the United States, who had previously been a qualified voter of this State and removed therefrom and returned, and who shall have resided in the election district and paid taxes as aforesaid, shall be entitled to vote after residing in the State 6 months: *Provided*, That white freemen, citizens of the United States, between the ages of 21 and 22 years, and having resided in the State 1 year and in the election district 10 days as aforesaid, shall be entitled to vote, although they shall not have paid taxes.

SEC. 2. All elections shall be by ballot, except those by persons in their representative capacities, who shall vote viva voce.

SEC. 3. Electors shall in all cases, except treason, felony, and breach of surety of the peace, be privileged from arrest during their attendance on elections and in going to and returning from them (see 5 Thorpe, supra, pp. 3108–3109, art. III).

Here, for the first time, Mr. President, we find the significant word "white," indicating a new consciousness of the Negro problem even in the Atlantic States.

The year 1874 saw another constitution come into effect in Pennsylvania. The suffrage provisions are detailed in article VIII:

SECTION 1. Every male citizen 21 years of age, possessing the following qualifications, shall be entitled to vote at all elections:

1. He shall have been a citizen of the United States at least 1 month.

2. He shall have resided in the State 1 year (or, if having previously been a qualified elector or native-born citizen of the State, he shall have removed therefrom and returned, then 6 months) immediately preceding the election.

3. He shall have resided in the election district where he shall offer to vote at least 2 months immediately preceding the election.

4. If 21 years of age or upwards, he shall have paid within 2 years a State or county tax, which shall have been assessed at least 2 months and paid at least 1 month before the election.

It was made to read as set forth in the text by amendment of November 5, 1901, by adding to the first sentence the clause, "subject, however, to such laws requiring and regulating the registration," and so forth, and by substituting in the last sentence for the phrase "or upwards" the phrase "and upwards."

SEC. 2. The general election shall be held annually on the Tuesday next following the first Monday of November, but the general assembly may by law fix a different day, two-thirds of all the Members of each House consenting thereto.

SEC. 3. All elections for city, ward, borough, and township officers, for regular terms of service, shall be held on the third Tuesday of February.

SEC. 4. All elections by the citizens shall be by ballot. Every ballot voted shall be numbered in the order in which it shall be received, and the number recorded by the election officers on the list of voters, opposite the name of the elector who presents the ballot. Any elector may write his name upon his ticket or cause the same to be written thereon and attested by a citizen of the district. The election officers shall be sworn or affirmed not to disclose how any elector shall have voted unless required to do so as witnesses in a judicial proceeding.

SEC. 5. Electors shall in all cases except treason, felony, and breach or surety of the peace, be privileged from arrest during their attendance on elections, and in going to and returning therefrom.

SEC. 6. Whenever any of the qualified electors of this Commonwealth shall be in actual military service, under a requisition from the President of the United States, or by the authority of this Commonwealth, such electors may exercise the right of suffrage in all elections by the citizens, under such regulations as are or shall be prescribed by law, as fully as if they were present at their usual places of election.

SEC. 7. All laws regulating the holdings of elections by the citizens or for the registration of electors shall be uniform throughout the State, but no elector shall be deprived of the privilege of voting by reason of his name not being registered.

SEC. 8. Any person, who shall give, or promise or offer to give, to an elector, any money, reward, or other valuable consideration for his vote at an election, or for withholding the same, or who shall give or promise to give such consideration to any other person or party for such elector's vote or for the withholding thereof, and any elector who shall receive or agree to receive, for himself or for another, any money, reward or other valuable consideration for his vote at an election, or for withholding the same, shall thereby forfeit the right to vote at such election, and any elector whose right to vote shall be challenged for such cause before the election officers, shall be required to swear or affirm that the matter of the challenge is untrue before his vote shall be received (see 5 Thorpe, supra, pp. 3138–3139, art. VIII, first 8 sections).

SEC. 13. Residence of electors: For the purpose of voting no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence, while employed in the service, either civil or military, of this State or of the United States, nor while engaged in the navigation of the waters of the State or of the United States, or on the high seas, nor while a student of any institution of learning, nor while kept in any poorhouse or other asylum at public expense, nor while confined in public prison.

Section 1 of article VIII was changed in 1901 to authorize the legislature to pass laws "requiring and regulating" registration:

SECTION 1. Qualifications of electors: Every male citizen 21 years of age, possessing the following qualifications, shall be entitled to vote at all elections, subject however to such laws requiring and regulating the registration of electors as the general assembly may enact:

1. He shall have been a citizen of the United States at least 1 month.

2. He shall have resided in the State 1 year (or, having previously been a qualified elector or native born citizen of the State, he shall have removed therefrom and returned, then 6 months), immediately preceding the election.

3. He shall have resided in the election district where he shall offer to vote at least 2 months immediately preceding the election.

4. If 22 years of age and upwards, he shall have paid within 2 years a State or county tax, which shall have been assessed at least 2 months and paid at least 1 month before the election (amendment of November 5, 1901).

In 1933 section 1 of article VIII was modified to eliminate the requirement of a poll tax:

SECTION 1. Qualifications of electors: Every citizen 21 years of age, possessing the following qualifications, shall be entitled to vote at all elections, subject, however, to such laws requiring and regulating the registration of electors as the general assembly may enact.

1. He or she shall have been a citizen of the United States at least 1 month.

2. He or she shall have resided in the State 1 year (or, having previously been a qualified elector or native born citizen of the State, he or she shall have removed therefrom and returned, then 6 months) immediately preceding the election.

3. He or she shall have resided in the election district where he or she shall offer to vote at least 2 months immediately preceding the election (amendment of Nov. 7, 1933).

Two amendments to section 1 of article VIII were proposed in 1957. The first of these proposed to change section 1 as follows:

Every citizen 18 years of age or over, possessing the following qualifications, shall be entitled to vote at all elections subject to such laws requiring and regulating the registration of electors as the general assembly may enact.

1. He or she shall have been a citizen of the United States at least 1 month.

2. He or she shall have resided in the State 1 year (or having previously been a qualified elector or native born citizen of the State he or she shall have removed therefrom and returned, then 6 months) immediately preceding the election.

3. He or shall shall have resided in the election district where he or she shall offer to vote at least 2 months immediately preceding the election.

The second proposal read as follows:

Every citizen 21 years of age, possessing the following qualifications, shall be entitled to vote at all elections subject, however, to such laws requiring and regulating the registration of electors as the general assembly may enact.

1. He or she shall have been a citizen of the United States at least 1 month.

2. He or she shall have resided in the State 1 year (or, having previously been a qualified elector or native born citizen of the State, he or she shall have removed therefrom and returned, then 6 months) immediately preceding the election.

3. He or she shall have resided in the election district where he or she shall offer to vote at least 60 days immediately preceding the election, except, that if qualified to vote in an election district prior to removal of residence, he or she may, if a resident of Pennsylvania, vote in the election district from which he or she removed his or her residence within 60 days preceding the election.

Both proposals were rejected.

Section 2 of article VIII was altered in 1909, changing the date of the general election:

SEC. 2. General elections: The general election shall be held biennially on the Tuesday next following the first Monday of November in each even-numbered year, but the general assembly may by law fix a different day, two-thirds of all the members of each house consenting thereto: *Provided*, That such election shall always be held in an even-numbered year (amendment of Nov. 2, 1909).

Section 3 of article VIII, as amended in 1909, changed the date of local elections from February to November:

SEC. 3. All judges elected by the electors of the State at large may be elected at either a general or municipal election, as circumstances may require. All elections for judges of the courts for the several judicial districts, and for county, city, ward, borough, and township officers, for regular terms of service, shall be held on the municipal election day, namely, the Tuesday next following the first Monday of November in each odd-numbered year, but the general assembly may by law fix a different day, two-thirds of all the members of each house consenting thereto: *Provided*, That such election shall always be held in an odd-numbered year.

Then in 1913, section 3 was again amended to permit judges whose terms of office would end in an odd-numbered year, to continue in office until January of the next succeeding even-numbered year:

SEC. 3. Municipal elections; election of judges and county officers: All judges elected by the electors of the State at large may be elected at either a general or municipal election, as circumstances may require. All elections for judges of the courts for the several judicial districts, and for county, city, ward, borough, and township officers, for regular terms of service, shall be held on the municipal election day; namely, the Tuesday next following the first Monday of November in each odd-numbered year, but the general assembly may by law fix a different day, two-thirds of all the members of each house consenting thereto: *Provided*, That such elections shall be held in an odd-numbered year: *Provided further*, That all judges for the courts of the several judicial districts holding office at the present time, whose terms of office may end in an odd-numbered year, shall continue to hold their offices until the first Monday of January in the next succeeding even-numbered year (amendment of Nov. 4, 1913).

Nineteen hundred and one brought a change in section 4 of article VIII, authorizing the legislature to prescribe methods of conducting elections, and repealed the specific methods outlined in the original version of section 4:

SEC. 4. Method of conducting elections; secrecy: All elections by the citizens shall be by ballot or by such other method as may be prescribed by law: *Provided*, That secrecy in voting be preserved (amendment of Nov. 5, 1901).

Nineteen hundred and one also brought a change in section 7 of article VIII; the amendment struck out the constitutional prohibition against an elector being deprived of his right to vote because he was not registered:

SEC. 7. All laws regulating the holding of elections by the citizens or for the registration of electors shall be uniform throughout the State.

Mr. President, what I am reading may all sound monotonous, but I merely cite it to show how the States themselves regarded the ballot, and the States themselves passed laws upon the qualifications of their electors.

Section 7 of article VIII was again modified in 1928 to permit the legislature to require registration of electors in cities only and to authorize the use of voting machines:

SEC. 7. Uniformity of election laws; registration of electors: All laws regulating the holding of elections by the citizens, or for the registration of electors, shall be uniform throughout the State, except that laws regulating and requiring the registration of electors may be enacted to apply to cities only, provided that such laws be uniform for cities of the same class, and except further, that the general assembly shall, by general law, permit the use of voting machines, or other mechanical devices for registering or recording and computing the vote, at all elections or primaries, in any county, city, borough or township of the commonwealth, at the option of the electors of such county, city, borough or township, without being obliged to require the use of such voting machines or mechanical devices in any other county, city, borough or township, under such regulations with reference thereto as the general assembly may from time to time, prescribe.

The general assembly may, from time to time, prescribe the number and duties of election officers in any political subdivision of the commonwealth in which voting machines or other mechanical devices authorized by this section may be used (amendment of November 6, 1928).

Pennsylvania, like Delaware, felt the alien problem, and was one of the first to require a long residence period.

Pennsylvania was one of the few States in the North to have a taxpaying qualification.

As a matter of interest, Mr. President, to show that the privilege of suffrage has always been qualified by the State, according to its own needs and situations, I quote:

In the Pennsylvania convention of 1789 all pointed heartily in the following statement and had it printed in large bold type:

"All power being originally vested in, is derived from, the people, and all free governments originate from their will, are founded on their authority, and instituted for their peace, safety, and happiness; and for the advancement thereof; they have, at all times, an unalienable and indefeasible right to alter, reform, or abolish their government in such manner as they may think proper" (from Pennsylvania convention, 1789, minutes, p. 45).

In spite of this acceptance of an abstract principle, a vigorous effort was early made in the convention to establish a property qualification for suffrage. Almost feverish eagerness was manifest to get such a restriction in, and it was proposed almost before the business of the convention was well underway. Eventually there was apprehension that it would not carry, and it did not; in its stead the usual compromise of a taxpaying qualification was introduced. Both these large States and their smaller neighbors were extravagant in formal announcements of the rights of "the people." But Massachusetts considered "the people" to be the property owners. Pennsylvania was one step in advance of Massachusetts and considered "the people" to be the taxpayers. Abstract pronouncement sounded well until specific definition of the terms was sought, and when the radicals said that "the people" included all men 21 years of age the fight was on in earnest (quote Porter, "History of Suffrage in the United States," p. 28, second paragraph to end first paragraph, p. 29).

Also, there is a remark of interest on Pennsylvania's exclusion of Negroes.

In tracing out the story of the suffrage a year or two later, Pennsylvania looms up large, for in 1837 a convention was held in that State, the records of which filled more than a dozen large volumes, in which the suffrage question fills its share of pages. The property interests made a tremendous effort to come back, as the saying is, but they were only able to cling to the taxpaying requirement; the hot debate which bade fair to lead either side to victory concerned the right of the free Negro to vote. A new tone was struck in this convention in connection with the Negro problem. Heretofore it had been treated almost solely as a political problem; now the other phase of the question was presented with greater emphasis, and it was maintained that other than political considerations would inevitably determine the question despite any action the lawmakers might take. It was pointed out that public sentiment, even where the law was in doubt, arose above all law and the Constitution and would keep the Negro from the polls.

I am referring to Pennsylvania, Mr. President.

It was very significant that men frequently asserted that to give the Negro suffrage would be to imply a promise that could never be carried out. It implied an equality that race characteristics belied. The Indian could not be elevated—he died out; the Negro could not be elevated? They did not undertake to answer the question, and it has not been answered yet, but they stuck tenaciously to the proposition that he could not be elevated and should not be incorporated into the body politic.

That was in the great State of Pennsylvania.

The prospect of Negroes sitting in legislatures, in the jury box, on the bench, at the bar, in all positions of respect and honor, repelled men with such force as to cause them to lose sight of all abstract political doctrine.

Up to about this time the Negro had not been a serious problem, for he was not present in sufficient numbers even to threaten to exercise any great influence in the Government. But the menace was

growing. The slavery controversy was waxing hot; the abolitionists were carrying fiery brands wherever they went; in a word, the political situation over slavery was coming to a crucial point, and race prejudice was developing to a point it had never reached before. This race prejudice, or consciousness of racial distinction, was present in the Pennsylvania convention in a way that it was not in the earlier conventions. This accounts for the sort of argument outlined above. Arguments telling of the Negro's rights and extolling his virtues and good qualities could have no effect. No matter what was said men were conscious of a distinction between the races which they viewed with jealousy and growing alarm, and all the old arguments pro and con fell upon deaf ears. From now on men were likely to vote from prejudice one way or the other.

I repeat, Mr. President, that was in the State of Pennsylvania.

Much opprobrium was heaped upon those who were said to vote against the Negro simply because his skin was dark. But few men really did that; the dark skin was to them merely an outward indication of qualities which fostered the racial antipathy. But in the midst of this illogical prejudice it is satisfying to discover an argument based on expediency. One of the speakers in the convention pointed out that Negroes had all the rights and privileges of citizenship and that it was not expedient to let them vote. They were no more discriminated against than were minors, women, and nontaxpayers. The elective franchise should only be given to those through whom the peace and prosperity of society would be promoted.

The defenders of the Negro followed the usual line. One delegate struck a new chord when he opposed the exclusion of the Negro because the basis of exclusion was a fact over which he had no control—his color. A suffrage qualification, said he, should be such that any man could attain it. A high property test, a taxpaying test, a long residence, age, literacy, were qualifications which a man could acquire, but race or color violated sound principles of democracy and left nothing to strive for; such men were hopelessly disfranchised. This man invoked a new principle of democracy, but his principle would have included women, too, although no one thought of that. It merely shows how inevitably both sides were driven to decide the whole proposition on the issue of expediency.

It may be well to consider briefly the question as to whether the Negroes as a group needed special representation. It has been characteristic of the political parties in this country since the breakdown of the Federalists in the early part of the 19th century that they have cut athwart all social and economic groups. There has been no labor party, no capitalist party, no religious party, no conservative or radical party. All parties have appealed to all classes, rich and poor, east and west. But the advent of the Negro presented a very distinct group, and it was considered by some that such a group needed special representation that could not be attained through any existing parties. However, it is significant that, while the Republican Party has claimed most of the Negroes, there is no essential reason why they should not distribute themselves as the white men have done throughout the other parties. Fortunately no deliberate attempt was made to treat this group as deserving special representation, even though it was considered at this time.

Of course, the usual compromises were suggested to let the Negro in, but they were all repudiated, and the Negro was denied the suffrage by a vote of 77 to 45.

I repeat, that was in the great State of Pennsylvania.

This denial of the suffrage to Negroes gave rise to considerable opposition throughout the State, where the abolition movement was relatively strong. The action of Pennsylvania in excluding the Negro marks a turning point in the development of the Negro-suffrage controversy. In a number of States Negroes had not been excluded in the past and never were excluded. There were some other States which had not excluded Negroes in the first place, but as time went on it was found desirable to do so. Pennsylvania was the last of these States. From this time on the actual Negro-suffrage situation did not change until the 14th amendment was in effect (quote Porter, supra, bottom of p. 85 through line 24, p. 89).

I am attempting to show by the heterogeneous laws of the 50 States the diversified conditions underlying the variations, and the different peoples, different habits, different economic, industrial, and agricultural setups which make it a matter of prime necessity to "render unto Caesar the things which are Caesar's" and cease this attempted unconstitutional meddling with States' affairs.

New Jersey, in the agreement of 1664, which was the concession of the province of New Caesarea, or New Jersey, provided as follows for elections:

That the inhabitants being freemen, or chief agents to others of the province aforesaid; do as soon as this our commission shall arrive by virtue of a writ in our names by the governor to be for the present (until our seal comes) sealed and signed, make choice of 12 deputies or representatives from amongst themselves; who being chosen are to join with the said governor and council for the making of such laws, ordinances, and constitution as shall be necessary for the present good and welfare of the raid province. But so soon as parishes, divisions, tribes, and other distinctions are made, that then the inhabitants or freeholders of the several respective parishes, tribes, divisions, and distinctions aforesaid, do by our writs, under our seals (which we engage, shall be in due time issued) annually meet on the first day of January, and choose freeholders for each respective division, tribe, or parish to be the deputies or representatives of the same: which body of representatives or the major part of them, shall, with the governor and council aforesaid, be the general assembly of the said province, the governor or his deputy being present, unless they shall wilfully defuse, in which case they may appoint themselves a president, during the absence of the governor or the deputy governor (quote 5 Thorpe, supra, p. 2537).

In 1683 in the Fundamental Constitutions for the province of East New Jersey it was provided:

The persons qualified to be freemen, that are capable to choose and be chosen in the great council, shall be every planter and inhabitant dwelling and residing within the province, who hath acquired rights to and is in possesson of 50 acres of ground, and hath cultivated 10 acres of it; or in boroughs, who have a house and 3 acres; or have a house and land only hired, if he can prove he has 50 pounds in stock of his own: and all elections must be free and voluntary, but were any bribe or indirect means can be proved to have been used, both the giver and acquirer shall forfeit their privilege of electing and being elected forever (see 5 Thorpe, supra, p. 2575, par. 2, No. III first 10 lines).

In 1776 came the first constitution of New Jersey as such framed by convention. Article IV contains the voters' qualifications:

ART. IV. That all inhabitants of this colony, of full age, who are worth £50 proclamation money; clear estate in the same, and have resided within the county in which they claim a vote for 12 months immediately preceding the election, shall be entitled to vote for representatives in council and assembly; and also for all other public officers, that shall be elected by the people of the county at large (see 5 Thorpe, supra, p. 2595).

In 1844, New Jersey drew up another constitution. Here we see the provisions closely following the previous ones.

Right of suffrage: Every male citizen of the United States, of the age of 21 years, who shall have been a resident of this State 1 year, and of the county in which he claims his vote 5 months, next before the election, shall be entitled to vote for all officers that now are, or hereafter may be, elective by the people; provided, that no person in the military, naval, or marine service of the United States shall be considered a resident in this State, by being stationed in any garrison, barrack, or military or naval place or station within this State; and no pauper, idiot, insane person, or person convicted of a crime which now excludes him from being a witness unless pardoned or restored by law to the right of suffrage, shall enjoy the right of an elector; and provided further, that in time of war no elector in the actual military service of the State, or of the United States, in the Army or Navy, thereof, shall be deprived of his vote by reason of his absence from such election district; and the legislature shall have power to provide the manner in which, and the time and place at which, such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside.

The legislature may pass laws to deprive persons of the right of suffrage who shall be convicted of bribery (5 Thorpe, supra, p. 2601, art. 11).

New Jersey in 1947 adopted a new constitution. The provisions relating to suffrage are found in article II, sections 1 through 7.

SECTION 1. General elections: General elections shall be held annually on the first Tuesday after the first Monday in November; but the time of holding such elections may be altered by law. The Governor and members of the legislature shall be chosen at general elections. Local elective officers shall be chosen at general elections, or at such other times as shall be provided by law.

SEC. 2. Questions for submission to people of entire State: All questions submitted to the people of the entire State shall be voted upon at general elections.

SEC. 3. Elections; qualifications: Every citizen of the United States, of the age of 21 years, who shall have been a resident of this State 1 year, and of the county in which he claims his vote 5 months, next before the election, shall be entitled to vote for all officers that now are or hereafter may be elective by the people, and upon all questions which may be submitted to a vote of the people.

SEC. 4. Electors in military service; absentee voting: In time of war no elector in the military service of the State or in the Armed Forces of the United States shall be deprived of his vote by reason of absence from his election district. The legislature may provide for absentee voting by members of the Armed Forces of the United States in time of peace. The legislature may provide the manner in which and the time and place at which such absent electors may vote, and

for the return and canvass of their votes in the election district in which they respectively reside.

SEC. 5. Residence of military personnel stationed within State: No person in the military, naval or marine service of the United States shall be considered a resident of this State by being stationed in any garrison, barrack, or military or naval place or station within this State.

SEC. 6. Persons denied right of suffrage, idiots, and insane persons: No idiot or insane person shall enjoy the right of suffrage.

SEC. 7. Persons denied right of suffrage, conviction of crime; restoration of right: The legislature may pass laws to deprive persons of the right of suffrage who shall be convicted of such crimes as it may designate. Any person so deprived, when pardoned or otherwise restored by law to the right of suffrage, shall again enjoy that right.

An explanation and background of the 1947 constitution appears at pages 13 through 36 of the New Jersey Statutes Annotated, volume entitled "Constitution," 1954 edition:

The year 1947 is easily recognized as the most eventful thus far in the history of State government in New Jersey. For those many valiant citizens who had toiled long and hard for constitutional revision, this was a year of rekindling of hopes dimmed by the decisive defeat at the polls in 1944 of a revised charter which had been agreed upon and submitted to the voters by the legislature. For all the citizens of New Jersey, this was a year which brought to fruition a model State constitution.

While 1947 was the year of accomplishment of constitutional reform, the movement for revision of the State's basic charter was then by no means new. It had, as Gov. Alfred E. Driscoll pointed out in his inaugural address to the legislature on January 21, 1947, "pursued an uncertain course ever since the annual message of Gov. Joel Parker in 1873, in which he advocated a constitutional convention.

A large scale drive was launched in 1941 by outstanding public-spirited citizens and organizations, with the establishment of broad research and educational programs demonstrating the need for extensive revision of the 1844 constitution. The campaign for constitutional reform was inspired by bipartisan support led by Democratic Gov. Charles Edison and Republicans Arthur T. Vanderbilt, of Essex County, formerly president of the American Bar Association and later dean of the New York University Law School (presently chief justice of the New Jersey Supreme Court), and Robert C. Hendrickson, of Gloucester County, then State senator (presently U.S. Senator), who was the Republican nominee for Governor in 1940. By joint resolution, approved November 18, 1941, the commission on revision of the New Jersey constitution was established, charged "with the duty of inquiring into the subject of constitutional revision and of suggesting in what respects the constitution of New Jersey should be changed and make recommendations to provide for the more effective working of present-day representative processes. The commission, which was generally referred to as the Hendrickson commission, after its chairman Senator Robert C. Hendrickson, a former Member of this body, was continued by joint resolution approved January 24, 1942, and submitted its report in May 1942, setting forth and unanimously recommending a revised constitution. The commission also recommended that a referendum be held at the September 1942 primary election, requesting that authority be given the legislature to submit a revised constitution at the 1942 general election. Following receipt of the report, the legislature, by concurrent resolution adopted June 15, 1942, established a joint committee of the legislature "to hold public hearings to ascertain the sentiment of the people of the State as to the various proposals and recommendations made by said commission (the commission on revision of the New Jersey constitution) in its report and to ascertain, also, the sentiment of the people of the State as to whether or not they desire the fundamental law of the State to be changed."

Public hearings were conducted by the joint committee during the summer of 1942, at which was disclosed strong sentiment for constitutional revision. However, the majority report of the committee (Sept. 28, 1942), concluded with a recommendation "that no further action for change in the New Jersey State constitution be taken until after the termination of the present war." Separate minority reports were submitted by two members of the committee—urging a public referendum at the 1942 general election on the question of authorizing the 1943 legislature to formulate a revised constitution to be submitted to the people, for adoption or rejection, at the 1943 general election.

Sustained public interest in revision continued during 1943, fortified by the added vigorous support of former Gov. Walter E. Edge. The legislature that year adopted legislation calling for a referendum at the 1943 general election to authorize the 1944 legislature to agree upon a revised State constitution retaining the then existing constitutional bill of rights and basis for representation in the legislature—to be submitted to the people, for approval and ratification or rejection, at the 1944 general election. The 1943 referendum was carried by a decisive plurality—the people wanted constitutional revision. With strong support from Governor Edge (elected to a second term at the 1943 general election), the legislature in 1944 established a joint legislative committee to formulate a draft of a proposed revised constitution. The committee held public hearings on its proposals. Thereafter, the legislature agreed upon a revised basic charter for the State and submitted it to the people at the November 1944 general election. Nonetheless, that document was rejected by a decisive plurality.

It was not until January 21, 1947, that the clouds of despair, which had hung over the revision movement since the 1944 defeat, were dispersed. On that day, Governor Driscoll, in his inaugural address, urged the legislature to submit to referendum the question of calling a constitutional convention to consist of 60 members to revise the State constitution with retention of the then existing basis for legislative representation—the work of the convention to be submitted, as a whole or in parts, for approval or rejection by the people at the general election in November 1947. Enabling legislation was adopted, with the convention to consist of 81 rather than 60 members, and with provision for the convention to retain the existing territorial limits of the respective counties, as well as the basis of representation in the legislature. On June 3 the plan was approved by referendum and delegates elected. Nine days later, on June 12, 1947, in New Brunswick, at Rutgers University, the State University of New Jersey, the convention began its hard task of molding a modern, forward-looking, fundamental law for New Jersey. Clearly evident in the selection of delegates and in the operation of the convention was the effectuation of the hope and thought expressed by Governor Driscoll in his inaugural address when he said:

"The convention will be successful in direct proportion to the widest possible participation of our citizens and the selection of the highest possible talent that our State so abundantly affords. May we, as we undertake this obligation, lay aside partisanship and select our best qualified citizens to represent us in the convention."

The document agreed upon by the delegates, after deliberations which extended through the hot summer months of 1947, received enthusiastic bipartisan support and was overwhelmingly adopted at the November 1947 general election.

The successful conclusion of the revision movement—the fact that New Jersey today has a model State constitution—is predominantly attributable to the dynamic leadership of Governor Driscoll and the vigorous and sustained support which he gave to the work of the convention.

A discussion of some of the major changes incorporated in the 1947 constitution follows.

Permeating the overall drive for constitutional revision was the basic need for a clear and unambiguous expression in the State charter of the traditional American principle of distinct separation of powers among the three departments of government—legislative, executive, and judicial—tempered only by a system of reasonable checks and balances which would provide for responsive as well as responsible government. The doctrine of separation of powers found only limited and ineffectual expression in the constitution of 1844. A chief illustration in this respect was the constitutional diffusion of considerable executive power among the legislative and judicial branches of the government. Thus, in revising the legislative, executive, and judicial articles, the delegates undertook to define more consistently the powers and functions of each branch of government, as well as to provide for their more efficient and effective operation. The task was accomplished in admirable fashion.

LEGISLATIVE

The previous constitution contained no provision prohibiting the legislature from providing for the election by itself of executive, administrative, or judicial officers. The absence of such a prohibition resulted in legislative enactments providing that certain essentially executive or administrative offices be filled by election by the legislature in joint session. A notable illustration in this respect was the office of commissioner of alcoholic beverage control. Moreover, the prior constitution itself required that the State treasurer and comptroller be appointed by the senate and general assembly in joint meeting. This failure to give adequate expression to the doctrine of separation of powers was effectively remedied by the inclusion in the 1947 constitution of a provision that "Neither the legislature nor either house thereof shall elect or appoint any executive, administrative, or judicial officer except the State auditor." The logical exception was made in the case of the State auditor, since by reason of his function of post-auditing State accounts he is, as the convention's committee on the legislature pointed out, "essentially an agent of the legislature and, therefore, should be elected by the legislature."

Other major improvements in the legislative article include:

To "effectively cure the evil of rushing bills from second to third reading without giving the members of the legislature an opportunity to study their contents," the convention's committee on the legislative recommended, and the convention adopted, a new provision (art. IV, sec. IV, par. 6) which has contributed immeasurably to the more orderly conduct of the legislative process. This provision prohibits any bill or joint resolution from being read a third time in either house until after the intervention of one full calendar day following the day of the second reading. The committee on the legislative recognized "that the inclusion of this provision might make it difficult, or even impossible, for the legislature to deal with real emergencies, which might require immediate action." To guard against such a contingency the committee proposed, and the convention adopted an

exception to the 1 day layover clause which permits a bill or joint resolution to proceed forthwith from second to third reading in either house if that house resolves by vote of three-fourths of all its members, signified by yeas and nays entered on the journal, that it is an emergency measure.

In proposing the provision requiring a full day's intervention between second and third reading of a bill or joint resolution, the convention's committee on the legislative expressed "confident expectation" that the provision "will not only bring about more orderly sessions of the legislature but will also improve the character of legislation by affording an adequate opportunity to the members to become acquainted with bills which they know will be moved to third reading."

This provision, as well as the exception which permits its suspension on a three-fourths vote, has worked well. Their effective operation has greatly improved the orderly conduct of the work of the legislature.

While the number of assemblymen and senators remained unchanged in the new constitution of 1947, their terms were lengthened. The terms of assemblymen were increased from 1 to 2 years, and those of senators from 3 to 4 years. The obvious objective was to permit them to devote more time to their legislative duties and less time to campaigning.

The provision for $500 annual salaries for members of the legislature, which was included in the earlier constitution in 1875, was found to be grossly inadequate. Accordingly, the new constitution allowed the compensation of members of the legislature to be fixed at the first legislative session after the constitution took effect, and further provided that such compensation might be increased or decreased by law from time to time thereafter; but no increase or decrease to be effective until the legislative year following the next general election for members of the general assembly. In 1948 the annual compensation was established at $3,000 (Public Law 1948, c. 16; N.J.S.A. 52: 10A–1).

The 1844 constitution provided for calling of special sessions of the legislature by the Governor alone. This the convention's committee on the legislative termed "an unwarranted restriction on the legislative power." Although the new constitution continues this power in the Governor, it also requires him to call special sessions of the legislature upon petition of a majority of all the members of each house.

By amendment to the 1844 constitution in 1927, the legislature was empowered to enact "general laws under which municipalities, other than counties, may adopt zoning ordinances limiting and restricting to specified districts and regulating therein, buildings and structures, according to their construction, and the nature and extent of their use * * *." This limited zoning provision was broadened in the 1947 constitution (art. IV, sec. VI, par. 2) to the extent of authorizing, in addition, general legislation under which municipalities may adopt zoning ordinances providing regulation according to "the nature and extent of the uses of land." Suggestion was made to the committee on the legislative that the authority to adopt zoning ordinances be extended to counties. This the committee rejected because it feared that such an extension "would eventually lead to a conflict between counties and municipalities with relation to the exercise of zoning powers."

The 1844 constitution contained no provision authorizing excess condemnation. This was remedied in the 1947 constitution by inclusion of paragraph 3, section VI, article IV, which provides that "any agency or political subdivision of the State or any agency of a political subdivision thereof, which may be empowered to take or otherwise acquire private property for any public highway, parkway, airport, place, improvement, or use, may be authorized by law to take or otherwise acquire a fee simple absolute or any lesser interest, and may be authorized by law to take or otherwise acquire a fee simple absolute in, easements upon, or the benefit of restrictions upon, abutting property to preserve and protect the public highway, parkway, airport, place, improvement, or use; but such taking shall be with just compensation."

One of the most vexing problems which confronted both the committee on the legislative and the convention as a whole was that relating to the provision on gambling. The 1844 constitution, as amended in 1939 (art. IV, sec. VII, par. 2) prohibited the legislature from legalizing any form of gambling except parimutuel betting at duly licensed racetracks.

Substantial differences of opinion arose before the committee as to the nature and extent of any provision on the subject to be included in the new charter. In view of the divergence of opinion, the committee concluded that the people should be permitted to express their preference on the issue of whether or not the then existing gambling clause should be liberalized. Accordingly, it proposed that alternative propositions on the subject be submitted at the November 1947 election; "the first alternative being the retention of the present gambling clause; the second being a liberalized gambling clause which would permit not only parimutuel betting, but would also permit the legislature to authorize and regulate the conduct of specified games of chance by bona fide charitable, religious, fraternal and veterans organizations or associations, and volunteer fire companies, subject to local option."

After considerable discussion on the subject, the convention discarded the proposal for alternative propositions in favor of a provision (art. IV, sec. VII, par. 2 of the 1947 constitution) which in effect authorized continuance of legislation permitting parimutuel betting at duly licensed racetracks, and prohibited gambling of any other kind to be authorized by the legislature unless the specific kind, restrictions and control thereof was thereafter submitted to, and authorized by a majority of the votes cast thereon by, the legally qualified voters of the State voting at a general election.

The previous constitution prohibited the passage of private, local or special laws regulating the internal affairs of towns and counties (par. 11, sec. VII, art. IV of the 1844 constitution, as amended). Although a similar provision is contained in the 1947 constitution (art. IV, sec. VII, par. 9), with the term "municipalities formed for local government" substituted for the term "towns," an exception is provided (1947 constitution, art. IV, sec. VII, par. 10), authorizing the legislature, by vote of two-thirds of all the members of each house, to pass such private, special or local laws regulating the internal affairs of any municipal corporation formed for local government or of any county, upon petition by the governing body of such municipal corporation or county, the petition to be authorized in a manner to be prescribed by general law, and to specify the general nature of the law sought to be passed. Such law would become operative only if adopted by ordinance of the governing body of the municipality or county or by vote of the legally qualified voters thereof; the legislature to prescribe either in the particular private, special, or local law, or by general law, the method of its adoption, and the manner in which the ordinance of adoption may be enacted or the vote taken, as the case may be. Legislation implementing this provision was enacted in 1948 (Public Law 1948, c. 199; N.J.S.A. 1: 6–10 to 1: 6–20).

The purpose of this new provision, as pointed out by the convention's committee on the legislative "is to allow the legislature to deal with situations which can only be remedied by private, special, or local laws, as for instance, the changing of a provision in a charter of a specified municipality." The committee further pointed out that its proposal "amply safeguards municipalities against discriminatory action, since the legislative process can only be initiated on petition of the municipality, and the law, when passed, must be adopted by the municipality by ordinance or referendum."

The legislative article of the 1947 constitution contains another new clause (art. IV, sec. VII, par. 11), which requires the provisions of the constitution and of any law concerning municipal corporations formed for local government, or concerning counties, to be liberally construed in their favor; and also, that the powers of counties and such municipal corporations shall include not only those powers granted in express terms but also those of necessary or fair implication, or incident to the powers expressly conferred, or essential thereto, and not inconsistent with or prohibited by the constitution or by law.

EXECUTIVE

The objective of the recommendations of the convention's committee which had the task of revising the executive article was, as the committee expressed it "to bring the powers of the Governor into line with the popular impression of the powers of that office and to provide for a centralization of authority and power in the office of the Governor under reasonable checks and balances, so that the chief executive may be truly responsible to the people for the conduct of the executive branch of the government." The committee added that "while all three branches of the government should be improved and the responsibility more clearly defined, the greatest need has been to raise the relative position of the executive, which under our present constitution (the 1844 constitution) has been the weakest of the three branches."

Accordingly, the committee on executive, militia, and civil officers recommended, and the convention adopted, extensive improvements in the new executive article, including the following:

The term of office of the Governor was changed from 3 years to 4 years; and a Governor is permitted to seek reelection for one successive term, after which he is ineligible for the office until the lapse of 4 years (art. V, sec. I, par. 5).

While continuing the duty of the Governor expressed in the previous constitution to "take care that the laws be faithfully executed," the 1947 constitution implements this requirement by empowering the chief executive, to this end, "by appropriate action or proceeding in the courts brought in the name of the State, to enforce compliance with any constitutional or legislative mandate, or to restrain violation of any constitutional or legislative power or duty by any officer, department, or agency of the State; but this power shall not be construed to authorize any action or proceeding against the legislature" (art. V, sec. I, par. 11).

The new constitution has provided a proper role for the executive in the legislative process. Additional time is now afforded the Governor for the consideration of legislation passed by both houses. Previously, the Governor was required to act upon any bill within 5 days (Sundays excepted) after it had been presented to him by the legislature. If, within that time, he had not returned it to the house in which it originated, with his objections, the bill became a law in the same manner as if he had signed it—unless the legislature, by adjourning, prevented its return, in which case it did not become a law but was "pocket vetoed."

The 1947 constitution (art. V, sec. I, par. 14(a)) extends the time allowed the Governor for consideration of bills presented to

him by the legislature to 10 days (Sundays excepted) while the legislature is in session. If the bill is not returned to the house of origin within such 10-day period, it becomes a law on the 10th day, unless the house of origin is in adjournment on that day. If, on the 10th day, the house of origin is in temporary adjournment during the course of a regular or special session, the bill becomes a law on the day that house reconvenes, unless the Governor returns the bill to it on that day.

A completely new provision is added (1947 constitution, art. V, sec. I, par. 14(b)), governing the situation when the legislature is in adjournment sine die on the 10th day (Sundays excepted) after the bill has been presented to the Governor. In such case the bill becomes a law if the Governor signs it within 45 days (Sundays excepted) after such adjournment. If the Governor fails to sign the bill within the 45-day period, it becomes a law on the 45th day without his signature, unless at or before noon of that day he returns it with his objections to the house of origin at a special session of the legislature which automatically convenes on that day, without petition or call, for the sole purpose of acting on bills so returned by the Governor. Under the terms of the constitution, such a special session is not convened whenever the specified day falls on or after the last day of the legislative year in which the adjournment of the legislature is taken—and in such case any bill not signed by the Governor within the 45-day period does not become a law.

Another important feature is the new provision which authorizes the Governor, in returning with his objections any bill for reconsideration at any general or special session of the legislature, to recommend that specific amendments be made in the bill—in which case the legislature may amend and reenact the bill. If a bill is so amended and reenacted, it is again presented to the Governor, but becomes a law only if he signs it within 10 days after presentation. No bill may be returned by the Governor a second time.

It is apparent from the above discussion of the Governor's new veto power that the pocket veto has been practically eliminated. It is still possible in only two instances, i.e., where the 45th day after sine die adjournment occurs on or after the last day of the legislative year in which the adjournment is taken, and in cases where a bill has been conditionally vetoed (returned with recommended amendments), amended and reenacted by the legislature, and not signed by the Governor within 10 days after it is presented to him as amended and reenacted.

While the exercise of the conditional veto power has placed substantial new burdens upon the Governor and his staff, it has had the salutary effect of saving many meritorious bills which contained serious constitutional or technical deficiencies, omissions, or conflicting or overlapping provisions, and which without this opportunity for correction would have had to be vetoed outright.

In addition, the veto power of the Governor has been effectively strengthened by requiring a two-thirds vote of the membership of each house to override any veto, rather than a bare majority as was previously the case; and by authorizing the Governor to veto in part (in effect, to reduce) any item of appropriation of money in any bill, as well as to veto entire items.

The constitution of 1844 contained no provision for State administrative organization. It left the legislature free to create as many independent State administrative agencies as it deemed advisable. The general pattern was the creation of new and independent administrative agencies for the performance of new functions undertaken by the State, rather than the allocation of these functions to existing agencies. Although partial consolidation was effected on a few occasions, after exhaustive surveys by legislative and other committees, nevertheless, over 70 independent State administrative agencies existed in 1947 through legislative action. Moreover, although the 1844 constitution did, in terms, provide that "the executive power shall be vested in a Governor" (constitution of 1944, art. V, par. 1), it not only failed to implement this provision adequately but actually weakened it seriously in several respects. For example: the terms of the three constitutional administrative officers appointed by the Governor with the advice and consent of the senate (the attorney general, the secretary of state, and the keeper of the State prison) were longer (5 years) than the Governor's term of office (3 years). Since the Governor could not succeed himself, the terms of these administrative officers necessarily extended into or beyond the next Governor's term.

Further, the appointment of the remaining two constitutional administrative officers (the State treasurer and comptroller), was vested in the senate and general assembly. In addition, the 1844 constitution made no provision for the exercise by the Governor of a power to remove appointed administrative officers, and failed to vest in him general power to supervise or investigate the conduct of State administrative agencies.

All of these deficiencies were effectively remedied in the constitution of 1947. Section IV of article V of the new constitution provided the mandate for a modern, forward-looking structure of State administrative organization. All executive and administrative offices, departments, and instrumentalities of the State government, including the offices of secretary of state and attorney general, and their respective functions, powers, and duties are required to be allocated by law among and within not more than 20 principal departments, in such manner as to group them according to major purposes so far as practicable. Temporary commissions for special purposes are permitted to be established by law, and these need not be allocated within any principal department. Each principal department is made subject to the supervision of the Governor. The head of each principal department must be a single executive, as distinguished from a board, commission, or other body, unless otherwise provided by law. Single executives are required to be nominated and appointed by the Governor, with the advice and consent of the senate, and serve at the pleasure of the Governor during the Governor's term of office and until the appointment and qualification of their successors—except that the secretary of state and the attorney general are similarly appointed but for terms which are coterminous with that of the Governor. Where a board, commission, or other body is by law made the head of a principal department, its members are nominated and appointed by the Governor, with the advice and consent of the Senate, and may be removed in the manner provided by law. When authorized by law, such a board, commission, or other body may appoint a principal executive officer, but the appointment is subject to the approval of the Governor. Any principal executive officer so appointed, moreover, is removable by the Governor, upon notice and an opportunity to be heard.

Effective legislative implementation of these provisions has provided a State administrative structure which is looked upon as a model by many States. Fourteen principal departments—six less than the maximum number allowed by the constitution—have been established. These are the departments of agriculture, banking and insurance, civil service, conservation and economic development, defense, education, health, institutions and agencies, labor and industry, law and public safety, public utilities, state, the treasury, and the State highway department.

There were incorporated in this administrative reorganization program, the major principles of modern State administrative reorganization which had been developed over the 30 years preceding the new State constitution.

These principles, directed toward the achievement of maximum efficiency and economy in the execution of State administrative activities, are:

(1) Integration of all administrative activities of the State along functional lines within a few well-balanced principal departments;

(2) Establishment of direct lines of responsibility for the administration of such functions and activities—from the Governor, through the department heads, to the subordinate officers of each department;

(3) Providing the Governor with executive authority commensurate with his responsibilities to the people of the State; and

(4) Requirement for coordination of administrative activities, the elimination of duplicating and overlapping functions, and full utilization of all staff facilities within each principal department.

In addition to the above mentioned removal power of the Governor, the new constitution authorizes him (art. V, sec. IV, par. 5), to cause investigations to be made of the conduct in office of any officer or employee who receives his compensation from the State, except a member, officer or employee of the legislature or an officer elected by the senate and general assembly in joint meeting, or a judicial officer; and to require such officers or employees to submit to him written statements, under oath, of such information as he may call for relating to the conduct of their respective officers or employments. After notice, the service of charges and an opportunity to be heard at public hearing, the Governor may remove any such officer or employee for cause. The officer or employee is given the right of judicial review, on both the law and the fact, in such manner as shall be provided by law.

Another provision of the executive article of the 1947 constitution (art. V, sec. IV, par. 6) prohibits the taking effect of any rule or regulation made by any department, officer, agency or authority of the State (except such as relates to the organization or internal management of the State government or a part thereof) until it is filed either with the secretary of state or in such manner as shall be provided by law.

Although the legislature is required to provide for the prompt publication of such rules and regulations, general legislative provisions on the subject have not as yet been adopted. Several comprehensive administrative procedure bills which have been introduced in the legislature over the past 6 years did include effective uniform provisions governing publication of administrative rules and regulations; but none was enacted.

The previous constitution failed to make proper allocation of the power of executive clemency; nor did it provide any distinct separation between executive clemency and parole functions. It authorized the Governor (art. V, par. 9) to suspend collection of fines and forefeitures, and to grant reprieves, not to extend beyond 90 days after conviction—excluding application of this power to cases of impeachment. It also conferred upon the Governor, the chancellor, and the six judges of the court of errors and appeals, or a majority of them including the Governor, authority to remit fines and forefeitures, and grant pardons, after conviction, in all cases other than impeachment (art. V, par. 10). This body, which became known as the court of pardons, accordingly exercised both executive clemency and what amounted to parole functions.

This diffusion of executive power into the judicial branch of the government was eliminated in the new constitution of 1947, and at the same time a clear-cut distinction was made between executive clemency and parole. The Governor now has authority to grant pardons and reprieves in all cases other than impeachment or treason, and may suspend and remit fines and forfeitures (art. V, sec. II, par. 1).

The same paragraph authorizes the adoption of legislation establishing a commission or other body to aid and advise the Governor in the exercise of executive clemency. The new constitution also requires legislation providing a system for the granting of parole (art. V, sec. II, par. 2). This provision has been effectively implemented by the adoption of legislation in 1948 establishing a State parole board in the State department of institutions and agencies and defining its functions and duties (P.L. 1948, c. 84). Provision is made for this board to aid and advise the Governor in the exercise of executive clemency.

JUDICIAL

Recently, Chief Justice Arthur T. Vanderbilt, of the New Jersey State Supreme Court, pointed out that "the first essential of a sound judicial establishment is a simple system of courts, for the work of the best bench and bar may be greatly handicapped by a multiplicity of courts with overlapping jurisdictions" (Arthur T. Vanderbilt, "The Essentials of a Sound Judicial System," Northwestern University Law Review, March–April 1953, vol. 48, No. 1).

The effective incorporation of this essential is one of the fundamental characteristics of the judicial system prescribed by the constitution of 1947, which has been lauded by the Journal of the American Judicature Society as "America's best."

The committee on the judiciary of the constitutional convention set forth in its report three basic principles which guided it in framing the judicial article. These were, as the committee pointed out:

First, unification of courts: By this means, the judicial system is simplified and the condition for economical and efficient administration established. It is the sole known technique for abolishing jurisdictional controversies which delay justice and waste the time and money of litigants and courts.

Second, flexibility of the court system: By assignment of judges according to ability, experience, and need, and apportion of judicial business among courts, divisions, and parts according to the volume and type of cases, judicial resources can be fully utilized and litigation promptly decided.

Third, control over administration, practice, and procedure by rules of court: Exclusive authority over administration, and primary responsibility for establishing rules of practice and procedure, secures businesslike management of the courts as a whole and promotes simplified and more economical judicial procedures.

The extensive application in the new constitution of these fundamental principles of sound judicial organization effectively eliminated the outstanding defects of the previous court structure. As the committee pointed out, these defects, according to nearly all the witnesses who appeared before it, might be grouped in three categories:

The intolerable evil of jurisdictional controversies engendered by rival courts of law and equity dealing with the same subject matter.

The multiple functions of appellate court judges and reiterated appeals of the same case.

The total lack of businesslike organization, coordination, and supervision of the courts as a whole. A corollary feature of this condition is the practice of resigning responsibility for the formulation of practice and procedure to intermittent revision by the legislature.

The judicial reorganization provided by the constitution of 1947, coupled with the State supreme court's effective streamlining of judicial procedures, under the constant dynamic leadership and tireless efforts of its chief justice, has given the people of New Jersey by far the most effective judicial system in the Nation.

The principal features of the new judicial article (art. VI) include:

The judicial power is vested in a supreme court; a superior court, divided into an appellate division, a law division, and a chancery division; county courts; and inferior courts of limited jurisdiction. The inferior courts (e.g., county district courts, criminal judicial district courts, juvenile and domestic relations courts, joint municipal courts and municipal courts) and their jurisdiction may from time to time be established, altered, or abolished by law. In this respect it should also be noted that authority is granted for the alteration by law, as the public good may require, of the jurisdiction, powers, and functions of the county courts and of the judges of the county courts (art. VI, sec. IV, par. 4).

The new court of last resort, the supreme court, consists of a chief justice and six associate justices, and replaces the previous 16-member court of errors and appeals. The chief justice is the administrative head of all the courts in the State. He appoints an administrative director who serves at his pleasure. Appeals may be taken to the supreme court—

(a) In causes determined by the appellate division of the superior court involving a question arising under the Constitution of the United States or this State;

(b) In causes where there is a dissent in the appellate division of the superior court;

(c) In capital causes;

(d) On certification by the supreme court to the superior court and, where provided by rules of the supreme court, to the county courts and the inferior courts; and

(e) In such causes as may be provided by law (art. VI, sec. V, par. 1).

The supreme court is empowered to make rules governing the administration of all courts in the State and, subject to law, the practice and procedure in such courts; and is granted jurisdiction over admission to the practice of law and the discipline of persons admitted (art. VI, sec. II, par. 3). The phrase "subject to law" in this constitutional provision refers to substantive law, and, accordingly, the court's constitutional rule-making power is not subject to overriding legislation on the subject of practice and procedure (*Winberry* v. *Salisbury*, 5 N.J. 240, 74 A. 2d 406 (1950)).

The superior court, which replaces the former supreme court, court of chancery, prerogative court, and circuit courts, has original general jurisdiction throughout the State in all causes (art. VI, sec. III, par. 2). It consists of such number of judges as may be authorized by law, but not less than 24 (the number is presently set at 38). They are assigned to the divisions and parts of the court by the chief justice of the supreme court. Subject to supreme court rules, the law division and chancery division of the court are each required to exercise the powers and functions of the other "when the ends of justice so require, and legal and equitable relief shall be granted in any cause so that all matters in controversy between the parties may be completely determined" (art. VI, sec. III, par. 4).

The appellate division hears appeals from the law and chancery divisions, the county courts, and in such other causes as may be provided by law. The supreme court and the appellate division are authorized to exercise "such original jurisdiction as may be necessary to the complete determination of any cause on review" (art. VI, sec. V, par. 3).

While prerogative writs are superseded, there is afforded, in lieu thereof, review, hearing, and relief in the superior court "on terms and in the manner provided by rules of the supreme court, as of right, except in criminal causes where such review shall be discretionary" (art. VI, sec. V, par. 4).

A county court is established in each county, with the jurisdiction previously exercised by the court of common pleas, orphans' court, court of oyer and terminer, court of quarter sessions, and court of special sessions, and such other jurisdiction consistent with the constitution as may be conferred by law (art. VI, sec. IV, par. 1). Each county court has at least one judge, and such additional judges as provided by law. The judges are appointed by the Governor, with the advice and consent of the senate, for 5-year terms. Subject to law, in civil causes including probate causes, within their jurisdiction, the county courts "may grant legal and equitable relief so that all matters in controversy between the parties may be completely determined" (art. VI, sec. IV, par. 5).

The justices of the supreme court and the judges of all courts, except inferior courts with jurisdiction limited to a single municipality, are nominated and appointed by the Governor, with the advice and consent of the senate. At least 7 days' public notice of any proposed nomination to such an office is required to be given by the Governor before the nomination is sent to the senate for confirmation (art. VI, sec. VI, par. 1). As the committee on the judiciary pointed out, "The interval should provide an opportunity, not always afforded in the past, for an expression of public opinion."

Justices of the supreme court and judges of the superior court hold their offices for initial terms of 7 years, and upon reappointment they hold their offices during good behavior and are required to be retired at the age of 70. Provisions for pensioning of the justices of the supreme court and the judges of the superior court are required to be made by law (art. VI, sec. VI, par. 3). Legislation implementing this provision has been enacted.

Pointing out that "despite the excellence of our judicial system, this bulwark of our republican form of government may further be strengthened and improved," Governor Driscoll, in his sixth annual message to the legislature, on January 13, 1953, urged the integration of the present county courts with the superior court. He noted, among other things, that "a separate county court means separate judges who have neither the status nor the security of superior court judges"; that "the judicial assignment of county judges can only be on a temporary basis, and the present arrangement necessitates the undesirable practice of having some part-time county judges assigned to try matters pending in a higher court"; and that "existing constitutional distinctions between the superior court and the county courts require special treatment, procedures, schedules of fees, records, and trained personnel." Legislation to effectuate integration was introduced at the regular session of the legislature in 1953, but was not enacted.

BILL OF RIGHTS

Article I of the constitution of 1947, the revised and extended bill of rights, is widely recognized as the most forward-looking document of its kind in the Nation. It expresses, as Governor Driscoll pointed out in his annual message to the legislature on January 11, 1949, "the social, political, and economic ideals of the present day in a broader way than ever before in American constitutional history."

The 1844 constitution provided that "no person shall be denied the enjoyment of any

civil right merely on account of his religious principles" (1844 constitution, art. I, par. 4). The new provision (1947 constitution, art I, par. 5) is far more comprehensive, as well as far more specific. It provides that "no person shall be denied the enjoyment of any civil or military right, nor be discriminated against in the exercise of any civil or military right, nor be segregated in the militia or in the public schools, because of religious principles, race, color, ancestry, or national origin" (art. I, par. 5).

This provision has been effectively implemented by executive and legislative action. New features were incorporated into New Jersey's civil rights legislation. Segregation in the New Jersey National Guard was abolished—a step which has since been followed by a number of other States.

Another new provision of the bill of rights guarantees to persons in private employment the right to organize and bargain collectively (art. I, par. 19). The same paragraph guarantees to persons in public employment "the right to organize, present to and make known to the State, or any of its political subdivisions or agencies, their grievances and proposals through representatives of their own choosing."

The legislature is authorized (art. I, par. 9) to "provide that in any civil cause a verdict may be rendered by not less than five-sixths of the jury." This provision has been implemented by legislation adopted in 1948 (P.L. 1948, c. 120; N.J.S.A. 2A: 80-2).

It should be noted here that other significant improvements in respect to rights and privileges are to be found in other provisions of the constitution. These include the specific provision of equal constitutional rights for women. Article X (general provisions), paragraph 4 requires that whenever in the constitution "the term 'person,' 'persons,' 'people,' or any personal pronoun is used, the same shall be taken to include both sexes."

Also, the previous provision prohibiting paupers from voting (1844 constitution, art. II, par. 1) has been eliminated.

OTHER CHANGES

Other important changes in the constitution include:

Taxation and finance: By amendment adopted in 1875, the previous constitution provided that "property shall be assessed for taxes under general laws, and by uniform rules, according to its true value" (1844 constitution as amended, art. IV, sec. VII, par. 12). The 1947 constitution, while prescribing that property be assessed for taxation under general laws and by uniform rules, requires that real property assessed and taxed locally or by the State for allotment and payment to taxing districts, "be assessed according to the same standard of value," and further requires such real property to "be taxed at the general tax rate of the taxing district in which the property is situated, for the use of such taxing district" (1947 constitution, art. VIII, sec. I, par. 1).

Provisions governing exemptions from taxation have also been included in the new constitution (art. VIII, sec. I, par. 2). These authorize the granting of such exemption only by general laws; and continue, until otherwise provided by law, "all exemptions from taxation validly granted and now in existence." In addition, exemptions from taxation are subject to being altered or repealed, with the exception of "those exempting real and personal property used exclusively for religious, educational, charitable or cemetery purposes, as defined by law, and owned by any corporation or association organized and conducted exclusively for one or more of such purposes and not operating for profit."

Specific provision is also made for certain exemptions to citizens and residents of the State who are honorably discharged or released war veterans and to widows of citizen and resident servicemen who die on active duty in time of war (1947 constitution, art. VIII, sec. I, par. 3).

The new constitution incorporates the principle of one general appropriation law for each fiscal year; and prohibits enactment of any law appropriating money for any State purpose "if the appropriation contained therein, together with all prior appropriations made for the same fiscal period, shall exceed the total amount of revenue on hand and anticipated which will be available to meet such appropriations during such fiscal period, as certified by the Governor" (1947 constitution, art. VIII, sec. II, par. 2).

The previous constitutional limitation imposed upon the legislature with respect to creation of any State debt or liability, other than such as were authorized in enactments meeting specified requirements and approved by referendum, has been revised. Any such debt or liability, together with prior debts or liabilities outstanding, could not, under the 1844 constitution, exceed $100,000 except for purposes of war, or to repel invasion, or to suppress insurrection (art. IV, sec. VI, par. 4). The $100,000 limitation has been changed to 1 percent of the total amount appropriated by the general appropriation law, for the fiscal year in which the debt or liability is created. The exceptions contained in the 1844 constitution, above noted, are extended by making the limitation also inapplicable to the creation of debts or liabilities for the purpose of meeting an emergency caused by disaster or act of God (1947 constitution, art. VIII, sec. II, par. 3).

The taxation and finance article of the new constitution also makes provision for stimulation of clearance, replanning development or redevelopment of blighted areas (art. VII, sec. III, par. 1).

It also authorizes the legislature, within reasonable limitations as to distance to be prescribed, to provide for the transportation to and from any school, of children within the ages of 5 to 18 years, inclusive (art. VIII, sec. IV, par. 3).

Civil service: The principle of the merit system in civil service is specifically incorporated in the new constitution (art. VII, sec. I, par. 2): "Appointments and promotions in the civil service of the State, and of such political subdivisions as may be provided by law, shall be made according to merit and fitness to be ascertained, as far as practicable, by examination, which, as far as practicable, shall be competitive; except that preference in appointments by reason of active service in any branch of the military or naval forces of the United States in time of war may be provided by law."

Amendments: Under the amending provision of the 1844 constitution any proposed amendment to the constitution was required to be adopted by a majority vote of each of the two houses of the legislature at each of two sessions (by consecutive legislature, with publication as required prior to election of the second legislature) and thereafter submitted to referendum at a special election (1844 constitution, art. IX). In adition, no amendment could be submitted to the people by the legislature oftener than once in 5 years.

The 1947 constitution extensively liberalizes the amending process by authorizing any proposed amendment to be submitted to the people if the same is agreed to by three-fifths of all the members of each house at one session or by a majority at each of two sessions (in separate legislative years) (art. IX, par. 1). The proposed amendment is required to be printed and placed on the desks of the members of each house of the legislature at least 20 calendar days prior to the first vote thereon in the house in which it is introduced. Thereafter and prior to such vote, public hearing must be held on the proposed amendment.

Each proposed amendment so adopted by the legislature, and published as required, must then be submitted to the people at the next general election. Accordingly, the expense of conducting a special election is eliminated. If at the election the proposed amendment is not approved, then neither the same proposed amendment nor one to effect the same or substantially the same change in the constitution can be submitted to the people before the third general election thereafter (art. IX, par. 7).

At the 1953 general election, two amendments to the constitution were approved: one relating to the conduct, under certain conditions, of games of chance called bingo and raffles (amendment to art. IV, sec. VII, par. 2); and another extending the veterans' widows' tax exemption features of article VIII, section I, paragraph 3.

More and more students of constitutional government throughout the Nation and even in far distant lands have come to hail the product of the New Jersey Constitutional Convention of 1947 as a model State charter. Its effective implementation has achieved extensive tangible improvement in each of the branches of the State government, and accordingly continues to yield mounting benefits to all the people of New Jersey.

Chafee summarizes the New Jersey rules prior to the adoption of the 1945 constitution by saying all persons living in the State 1 year and county 5 months can vote; all voters in municipalities must have registered since December 20, 1941; and registration in rural sections is to be by house-to-house canvass and personal appearance. At one time, long before the 19th amendment, women were allowed to vote in New Jersey for a short period. See Porter, "History of Suffrage in the United States," page 67.

Woman suffrage was almost unheard of up to the middle of the 19th century. The exceptional case in New Jersey proves the rule, and the facts have been retold so many times that apologies should be offered for giving them here. In the New Jersey constitution of July 2, 1776, the privilege of voting for assemblymen was given to "all inhabitants of full age who are worth 50 pounds proclamation money." There was nothing to indicate that anybody expected women to take advantage of this clause, and it seems that they did not do so in sufficiently large numbers to attract any attention, for in 1797 the new constitution contained the phrase "all free inhabitants," etc. But some closely contested elections a few years later stimulated interest to such an extent that women did seek to vote, and no legal impediment could be discovered to prevent them. The action ultimately led to such disorders that in 1807 the legislature took proper steps to put a stop to woman suffrage for good and all (Porter, supra, p. 136, first paragraph).

New Jersey was one of the first States to allow women to vote in school elections.

In 1820 the Negro problem was felt even in New Jersey, and they altered their constitution to exclude Negroes by defining their qualifications in terms of "white males." See Porter, supra, page 90.

It is also of interest to note the trend away from property requirements in the absence of the former one when the 1844 constitution was drawn.

Georgia was one of the early colonies which later fell heir to the problems of all Southern States. Georgia was char-

tered in 1732. At a convention in Savannah, Georgia's first constitution was framed and agreed to in 1777. Article IX provided for the qualifications of voters:

All male white inhabitants, of the age of 21 years, and possessed in his own right of £10 value, and liable to pay tax in this State, or being of any mechanic trade, and shall have been resident 6 months in this State, shall have a right to vote at all elections for representatives, or any other officers, herein agreed to be chosen by the people at large; and every person having a right to vote at any election shall vote by ballot personally (II Thorpe, supra, p. 779, art. IX).

Here we find the exclusion of the Negroes in the first constitution because of their presence in that State in sufficient numbers at that time to raise the issue. The lack of that presence is reflected in Northern and Western States by their failure to make any such provisions.

In 1789 another constitution was framed. Here we find:

The electors of the members of both branches of the general assembly shall be citizens and inhabitants of this State, and shall have attained to the age of 21 years, and have paid tax for the year preceding the election, and shall have resided 6 months within the country.

All elections shall be by ballot, and the house of representatives, in all appointments of the State officers, shall vote for three persons; and a list of the three persons having the highest number of votes shall be signed by the speaker, and sent to the senate, which shall from such list determine, by a majority of their votes, the officer elected, except militia officers and the secretaries of the Governor, who shall be appointed by the Governor alone, under such regulations and restrictions as the general assembly may prescribe. The general assembly may vest the appointment of inferior officers in the Governor, the courts of justice, or in such other manner as they may by law establish (II Thorpe, supra, p. 789, art. IV, secs. 1 and 2).

The "liable to tax" has changed to "have paid tax."

The electors of members of the general assembly shall be citizens and inhabitants of this State, and shall have attained the age of 21 years, and have paid all taxes which may have been required of them, and which they may have had an opportunity of paying, agreeably to law, for the year preceding the election, and shall have resided 6 months within the county; *Provided*, That in case of an invasion, and the inhabitants shall be driven from any county, so as to prevent an election therein, such refugee inhabitants, being a majority of the voters of such county, may meet under the direction of any three justices of the peace thereof, in the nearest county not in a state of alarm, and proceed to an election, without having paid such tax so required of electors; and the persons elected thereat shall be entitled to their seats (II Thorpe, supra, p. 800, art. IV, sec. 1).

This is found in the 1798 Constitution. In 1865, just after the Civil War, another constitution came into being. Again note the prominence of the Negro problem:

The electors or members of the general assembly shall be free white male citizens of this State, and shall have attained the age of 21 years, and have paid all taxes which may have been required of them, and which they have had an opportunity of paying, agreeable to law, for the year preceding the election; shall be citizens of the United States, and shall have resided 6 months either in the district or county, and 2 years within this State, and no person not qualified to vote for members of the general assembly shall hold any office in this State (Thorpe II, supra, p. 820, art. V, sec. 1).

In 1868 Major General Meade called a convention in Atlanta and submitted a constitution to the people, which was ratified by a narrow margin:

SECTION 1. In all elections by the people the electors shall vote by ballot.

SEC. 2. Every male person born in the United States, and every male person who has been naturalized, or who has legally declared his intention to become a citizen of the United States, 21 years old or upward, who shall have resided in this State 6 months next preceding the election, and shall have resided 30 days in the county in which he offers to vote, and shall have paid all taxes which may have been required of him, and which he may have had an opprtunity of paying, agreeably to law, for the year preceding the election (except as hereinafter provided), shall be deemed an elector; and every male citizen of the United States of the age aforesaid (except as hereinafter provided) who may be a resident of the State at the time of the adoption of this constitution shall be deemed an elector, and shall have all the rights of an elector as aforesaid: *Provided*, That no soldier, sailor, or marine in the military or naval service of the United States shall acquire the rights of an elector by reason of being stationed on duty in this State; and no person shall vote who, if challenged, shall refuse to take the following oath:

"I do swear that I have not given or received, nor do I expect to give or receive, any money, treat, or other thing of value, by which my vote, or any vote, is affected, or expected to be affected, at this election, nor have I given or promised any reward, or made any threat, by which to prevent any person from voting at this election."

I know it is monotonous for me to read the qualifications of electors of the various States, but I simply do it to show how jealous the various States are of their rights to fix qualifications of voters. These qualifications were not only written into the constitutions of the States, but were also supplemented by statute.

Here we have a bill before us which seeks to put the big arm of the Federal Government into the affairs of the individual States and qualify electors.

Mr. President, I am still reading from the constitution of the State of Georgia, just as I read from the constitutions of the States of New Jersey, Delaware, and Pennsylvania.

SEC. 3. No person convicted of felony or larceny before any court of this State, or of or in the United States, shall be eligible to any office or appointment of honor or trust within this State, unless he shall have been pardoned.

SEC. 4. No person who is the holder of any public moneys shall be eligible to any office in this State until the same is accounted for and paid into the treasury.

SEC. 5. No person who, after the adoption of this constitution, being a resident of this State, shall engage in a duel in this State, or elsewhere, or shall send or accept a challenge, or be aider or abetter to such duel, shall vote or hold office in this State; and every such person shall also be subject to such punishment as the law may prescribe.

Imagine, Mr. President, dualists were disenfranchised.

SEC. 6. The general assembly may provide, from time to time, for the registration of all electors, but the following classes of persons shall not be permitted to register, vote, or hold office: (1) Those who shall have been convicted of treason, embezzlement of public funds, malfeasance in office, crime punishable by law with imprisonment in the penitentiary, or bribery; (2) idiots or insane persons.

SEC. 7. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest for 5 days before an election, during the election, and 2 days subsequent thereto.

SEC. 8. The sale of intoxicating liquors on days of election is prohibited (Thorpe II, supra, p. 825, art. II, first eight sections).

A problem indigeneous to the particular State has arisen here in the prevalence of the custom of dueling. The State has taken this mode of discouragement; namely, deprivation of voting privilege.

In the constitution of 1877 the provisions were slightly varied in form but not in substance.

By amendment, the Georgia Constitution was made to read:

ARTICLE II, SECTION I

PAR. I. Registration: After the year 1908, elections by the people shall be by ballot, and only those persons shall be allowed to vote who have been first registered in accordance with the requirements of law (added by an amendment adopted October 7, 1908).

This refers to State law, not Federal law.

PAR. II. Qualifications of voters: Every male citizen of this State who is a citizen of the United States, 21 years old or upward, not laboring under any of the disabilities named in this article, and possessing the qualifications provided by it, shall be an elector and entitled to register and vote at any election by the people: *Provided*, That no soldier, sailor, or marine in the military or naval services of the United States shall acquire the rights of an elector by reason of being stationed on duty in this State (as amended October 7, 1908).

PAR. III. Residence—Poll tax: To entitle a person to register and vote at any election by the people, he shall have resided in the State 1 year next preceding the election, and in the county in which he offers to vote 6 months next preceding the election, and shall have paid all poll taxes that he may have had an opportunity of paying agreeably to law. Such payment must have been made at least 6 months prior to the election at which he offers to vote, except when such elections are held within 6 months from the expiration of the time fixed by law for the payment of such taxes (as amended November 8, 1932).

PAR. IV. Additional qualifications: Every male citizen of this State shall be entitled to register as an elector, and to vote in all elections in said State, who is not disqualified under the provisions of section 2 of article 2 of this constitution, and who possesses the qualifications prescribed in paragraphs 2 and 3 of this section or who will possess them at the date of the election occurring next after his registration, and who in addition thereto comes within either of the classes provided for in the five following subdivisions of this paragraph:

1. Veterans: All persons who have honorably served in the land or naval forces of the United States in the Revolutionary War, or in the War of 1812, or in the war with Mexico, or in any war with the Indians, or in the War Between the States, or in the war with Spain, or who honorably served

in the land or naval forces of the Confederate States or of the State of Georgia in the War Between the States; or

2. Descendents of veterans: All persons lawfully descended from those embraced in the classes enumerated in the subdivision next above; or

3. Good character: All persons who are of good character and understand the duties and obligations of citizenship under a republican form of government; or

4. Literacy: All persons who can correctly read in the English language any paragraph of the Constitution of the United States or of this State and correctly write the same in the English language when read to them by any one of the registrars, and all persons who solely because of physical disability are unable to comply with the above requirements but who can understand and give a reasonable interpretation of any paragraph of the Constitution of the United States or of this State, that may be read to them by any one of the registrars.

5. Land ownership: Any person who is the *owner in good faith* in his own right of at least 40 acres of land situated in this State, upon which he resides, or is the owner in good faith in his own right of property situated in this State and assessed for taxation at the value of $500 (Constitution of the States and United States, p. 360, art. II, pars. 1–4).

Georgia adopted another constitution in 1945, in which it is provided:

ARTICLE II. ELECTIVE FRANCHISE

SECTION I

2–701. (6395) PAR. I. Elections by ballot; registration of voters: Elections by the people shall be by ballot, and only those persons shall be allowed to vote who have been first registered in accordance with the requirements of law.

2–702. (6396) PAR. II. Who shall be an elector entitled to register and vote: Every citizen of this State who is a citizen of the United States, 18 years old or upward, not laboring under any of the disabilities named in this article, and possessing the qualifications provided by it, shall be an elector and entitled to register and vote at any election by the people: *Provided,* That no soldier, sailor, or marine in the military or naval services of the United States shall acquire the rights of an elector by reason of being stationed on duty in this State.

Throughout the constitution of Georgia there are written qualifications, in the same manner as I pointed out to be the case in Louisiana, in my speech on yesterday.

2–703. (6397) PAR. III. Who entitled to register and vote: To entitle a person to register and vote at any election by the people, he shall have resided in the State 1 year next preceding the election, and in the county in which he offers to vote 6 months next preceding the election.

2–704. (6398) PAR. IV. Qualifications of electors: Every citizen of this State shall be entitled to register as an elector, and to vote in all elections in said State, who is not disqualified under the provisions of section II of article II of this constitution, and who possesses the qualifications prescribed in paragraphs II and III of this section or who will possess them at the date of the election occurring next after his registration, and who in addition thereto comes within either of the classes provided for in the two following subdivisions of this paragraph:

1. All persons who are of good character and understand the duties and obligations of citizenship under a republican form of government; or

2. All persons who can correctly read in the English language any paragraph of the Constitution of the United States or of this State and correctly write the same in the English language when read to them by any one of the registrars, and all persons who solely because of physical disability are unable to comply with the above requirements but who can understand and give a reasonable interpretation of any paragraph of the Constitution of the United States or of this State that may be read to them by any one of the registrars.

2–705. (6400) PAR. V. Appeal from decision of registrars: Any person to whom the right of registration is denied by the registrars upon the ground that he lacks the qualifications set forth in the two subdivisions of paragraph IV shall have the right to take an appeal, and any citizen may enter an appeal from the decision of the registrars allowing any person to register under said subdivisions. All appeals must be filed in writing with the registrars within 10 days from the date of the decision complained of, and shall be returned by the registrars to the office of the clerk of the superior court to be tried as other appeals.

2–706. (6401) PAR. VI. Judgment of force pending appeal: Pending an appeal and until the final decision of the case, the judgment of the registrars shall remain in full force.

SECTION II

2–801. (6404) PAR. I. Registration of electors; who disfranchised: The general assembly may provide, from time to time, for the registration of all electors, but the following classes of persons shall not be permitted to register, vote, or hold any office, or appointment of honor, or trust in this State, to wit: First, those who shall have been convicted in any court of competent jurisdiction of treason against the State, of embezzlement of public funds, malfeasance in office, bribery, or larceny, or of any crime involving moral turpitude, punishable by the laws of this State with imprisonment in the penitentiary, unless such persons shall have been pardoned; second, idiots and insane persons.

SECTION III

2–901. (6405) PAR. I. Privilege of electors from arrest: Electors shall, in all cases, except for treason, felony, larceny, and breach of the peace, be privileged from arrest during their attendance on elections, and in going to and returning from the same.

SECTION IV

2–1001. (6406) PAR. I. Holder of public funds: No person who is the holder of any public money, contrary to law, shall be eligible to any office in this State until the same is accounted for and paid into the treasury.

Here are a number of clauses which merit attention. We find the education clause so called, the literacy tests, and good character clause. Also, it is odd to find a provision requiring property ownership in some form inserted as late as 1908. Georgia had abandoned the property qualification in 1789. See Porter, "History of Suffrage in the United States," page 22. Georgia has recently amended its constitution permitting persons who have reached the age of 18 years to vote. Poll taxes have been abolished and I may add that they have been abolished as provided for by the constitution of the State of Georgia.

Connecticut was chartered early in the 17th century but it was 1818 before a constitution was drawn in convention at Hartford. Article 6 governed the qualifications of electors:

Article 6 of the qualification of electors:

SECTION 1. All persons who have been, or shall hereafter, previous to the ratification of this constitution, be admitted freemen, according to the existing laws of this State, shall be electors.

SEC. 2. Every white—

"White"—accent on "white"—

SEC. 2. Every white male citizen of the United States, who shall have gained a settlement in this State, attained the age of 21 years, and resided in the town in which he may offer himself to be admitted to the privilege of an elector, at least 6 months preceding; and have a freehold estate of the yearly value of $7 in this State; or, having been enrolled in the militia, shall have performed military duty therein for the term of 1 year next preceding the time he shall offer himself for admission, or being liable thereto shall have been, by authority of law, excused therefrom; or shall have paid a State tax within the year next preceding the time he shall present himself for such admission; and shall sustain a good moral character, shall, on his taking such oath as may be prescribed by law, be an elector.

SEC. 3. The privileges of an elector shall be forfeited by a conviction of bribery, forgery, perjury, dueling, fraudulent bankruptcy, theft, or other offense for which an infamous punishment is inflicted.

SEC. 4. Every elector shall be eligible to any office in this State, except in cases provided for in this constitution.

SEC. 5. The selectmen and town clerk of the several towns shall decide on the qualifications of electors, at such times and in such manner as may be prescribed by law.

SEC. 6. Laws shall be made to support the privilege of free suffrage, prescribing the manner of regulating and conducting meetings of the electors, and prohibiting, under adequate penalties, all undue influence therein, from power, bribery, tumult, and other improper conduct.

SEC. 7. In all elections of officers of the State, or members of the general assembly, the votes of the electors shall be by ballot.

SEC. 8. At all elections of officers of the State or members of the general assembly, the electors shall be privileged from arrest during their attendance upon, and going to, and returning from the same, on any civil process.

SEC. 9. The meetings of the electors for the election of the several State officers by law annually to be elected, and members of the general assembly of this State, shall be holden on the first Monday of April in each year (Thorpe I, supra, p. 544, art. 6).

Section 2 of article VI of the 1819 constitution was amended by article VIII of the articles of amendment, in 1838, to delete the property requirements:

Every white male citizen of the United States, who shall have attained the age of 21 years, who shall have resided in this State for a term of 1 year next preceding, and in the town in which he may offer himself to be admitted to the privileges of an elector, at least 6 months next preceding the time he may so offer himself, and shall sustain a good moral character, shall, on his taking such oath as may be prescribed by law, be an elector (Gen. Stat. of Conn., art. VIII, p. 47).

In 1855, section 2 was amended by article XI of the amendments, to impose a literacy test:

Every person shall be able to read any article of the constitution or any section of the statutes of this State before being admitted as an elector (Gen. Stat. of Conn., art. XI, p. 48).

Mr. President, it is singular that in most of these State constitutions almost identical language is used. Almost the

same exceptions are made as to those who can and those who cannot vote. What I am presenting to the Senate at the moment is the constitutions and the amendments thereto of the Thirteen Original States. I had the hope of completing that resolution this evening, but I doubt whether I shall be able to do so. I suppose I shall have to do so at some later time. As I understand, I was permitted to hold the floor for only 3 hours.

Article XXIII of the amendments, approved in 1876, amended article VIII of the amendments to remove the racial requirement:

Every male citizen of the United States, who shall have attained the age of 21 years, who shall have resided in this State for a term of 1 year next preceding, and in the town in which he may offer himself to be admitted to the privileges of an elector, at least 6 months next preceding the time he may so offer himself, and shall sustain a good moral character, shall, on his taking such oath as may be prescribed by law, be an elector (Gen. Stat. of Conn., p. 47).

Article XXIX of the amendments, adopted in October of 1897, amended the literacy requirement by declaring that not only must electors be able to read any article of the constitution or any section of the statutes of Connecticut before being admitted as an elector, but they had to be able to read the constitution or the statutes "in the English language":

Every person shall be able to read in the English language any article of the constitution or any section of the statutes of this State before being admitted an elector (Gen. Stat. of Conn., art. XXIX, p. 53).

Section 3 of article VI was amended in 1875 by article XVII of the articles of amendments, to permit the general assembly to restore the privileges of an elector to persons convicted of crime. That amendment read:

The general assembly shall have power by a vote of two-thirds of the members of both branches to restore the privileges of an elector to those who may have forfeited the same by a conviction of crime (Gen. Stat. of Conn., art. XVII, p. 50).

Section 5 of article VI was amended in 1932 by article XXXVIII of the amendments, to permit selectmen and town clerks, or assistant town clerks, to determine the qualifications of electors:

Section 5 of article VI is amended to read as follows:

"The selectmen and town clerks or an assistant town clerk of the several towns, shall decide on the qualifications of electors, at such times and in such manner as prescribed by law" (Gen. Stat. of Conn., art. XXXVIII, p. 55).

Voting machines were authorized in 1905 for use in Connecticut elections, with the ratification of article XXXIII of the articles of amendment:

Voting machines or other mechanical devices for voting may be used in all elections in this State, under such regulations as may be prescribed by law; provided, however, that the right of secret voting shall be preserved (Gen. Stat. of Conn., art. XXXIII, p. 54).

Now I may pose a question. How in the name of common sense can the ballots in Connecticut be impounded when voting machines are used? As I pointed out yesterday, we have voting machines in the State of Louisiana, and we would be unable to comply with the requirements of the proposed law. As I pointed out, it would violate the secrecy of the ballot, because the only thing that could be done would be to have the elector state under oath for whom he votes, and impound that ballot. What would become of the secrecy of the ballot, which is provided for in the constitution of practically every State in the Union?

Section 9 of article VI was amended in 1875 to change the dates of election and terms of office of State officials:

SECTION 1. A general election for Governor, Lieutenant Governor, secretary of state, treasurer, comptroller, and members of the general assembly, shall be held on the Tuesday after the first Monday of November 1876 and annually thereafter for such officers as are herein and may be hereafter prescribed.

SEC. 2. The State officers above named and the senators from those districts having even numbers elected on the Tuesday after the first Monday of November 1876 and those elected biennially thereafter on the Tuesday after the first Monday of November shall respectively hold their offices for 2 years from and after the Wednesday following the first Monday of the next succeeding January. The senators from those districts having odd numbers elected on the Tuesday after the first Monday of November 1876 shall hold their offices for 1 year from and after the Wednesday following the first Monday of January 1877, the electors residing in the senatorial districts having odd numbers shall on the Tuesday after the first Monday of November 1877 and biennially thereafter elect senators who shall hold their offices for 2 years from and after the Wednesday following the first Monday of the next succeeding January. The representatives elected from the several towns on the Tuesday after the first Monday of November 1876 and those elected annually thereafter shall hold their offices for 1 year from and after Wednesday following the first Monday of the next succeeding January.

SEC. 3. There shall be a stated session of the general assembly in Hartford on the Wednesday after the first Monday of January 1877 and annually thereafter on the Wednesday after the first Monday of January.

SEC. 4. The persons who shall be severally elected to the State offices and general assembly on the first Monday of April 1876 shall hold such offices only until the Wednesday after the first Monday of January 1877.

SEC. 5. The general assembly elected in April 1876 shall have power to pass such laws as may be necessary to carry into effect the provisions of this amendment (Gen. Stat. of Conn., art. XVI, pp. 49–50).

Section 9 was again amended by article XXVII of the amendments in 1884, and, once again, the time of general elections was changed:

SECTION 1. A general election for Governor, Lieutenant Governor, secretary, treasurer, comptroller, and members of the general assembly shall be held on the Tuesday after the first Monday of November 1886, and biennially thereafter, for such officers as are herein and may be hereafter prescribed.

SEC. 2. The State officers above named and members of the general assembly elected on the Tuesday after the first Monday of November 1896, and those elected biennially thereafter on the Tuesday after the first Monday of November, shall hold their respective offices from the Wednesday following the first Monday of the next succeeding January until the Wednesday after the first Monday of the third succeeding January, and until their successors are duly qualified.

SEC. 3. The compensation of members of the general assembly shall not exceed $300 for the term for which they are elected, and one mileage each way for the regular session at the rate of 25 cents per mile; they shall also receive one mileage at the same rate for attending any extra session called by the Governor.

SEC. 4. The regular sessions of the general assembly shall commence on the Wednesday following the first Monday of the January next succeeding the election of its members.

SEC. 5. The senators elected on the Tuesday after the first Monday of November 1885, shall hold their offices only until the Wednesday after the first Monday of January 1887 (Gen. Stat. of Conn., art. XXVII, p. 42).

In 1955 Connecticut repealed articles I to XI of its constitution, and articles of amendment I to XLVII. In their place Connecticut substituted a completely revised constitution. Article VI dealing with the qualifications of electors, reads as follows:

Article VI of the qualifications of electors.

SEC. 1. Every citizen of the United States, who shall have attained the age of 21 years, who shall have resided in this State for a term of 1 year next preceding, and in the town in which he may offer himself to be admitted to the privileges of an elector, at least 6 months next preceding the time he may so offer himself, and shall be able to read in the English language any article of the constitution or any section of the statutes of this State, and shall sustain a good moral character, shall, on his taking such oath as may be prescribed by law, be an elector.

SEC. 2. The general assembly shall by law prescribe the offenses on conviction of which the privileges of an elector shall be forfeited and the conditions on which and methods by which such rights may be restored.

SEC. 3. Every elector shall be eligible to any office in this State, except in cases provided for in this constitution.

SEC. 4. The selectmen and town clerks or an assistant town clerk of the several towns, shall decide on the qualifications of electors, at such times and in such manner as prescribed by law.

SEC. 5. Laws shall be made to support the privilege of free suffrage, prescribing the manner of regulating and conducting meetings of the electors, and prohibiting, under adequate penalties, all undue influence therein, from power, bribery, tumult, and other improper conduct.

SEC. 6. The general assembly shall have power to provide by law for voting by qualified voters of the State who are absent from the city or town of which they are inhabitants at the time of an election or because of sickness or physical disability are unable to appear at the polling places on the day of election, in the choice of any officer to be elected or upon any question to be voted on at such election.

SEC. 7. In all elections of officers of the State, or members of the general assembly, the votes of the electors shall be by ballot, either written or printed, except that voting machines or other mechanical devices for voting may be used in all elections in this State, under such regulations as may be prescribed by law; provided, however, that the right of secret voting shall be preserved.

SEC. 8. At all elections of officers of the State, or members of the general assembly, the electors shall be privileged from arrest, during their attendance upon, and going to,

and returning from the same, on any civil process (1955 supp. to Conn. Gen. Stat., art. VI, pp. XXXIX, XL).

Connecticut was one of the five States, with New Jersey, Rhode Island, Virginia, and Tennessee, which stuck to the property test to the last believing the landed man was most to be trusted.

Only property holders were deemed to have a permanent interest in the government and therefore to be the only safe repository of the elective franchise (see McCulloch, "Suffrage and Its Problems," pp. 36–39).

Also, as the older property qualifications broke down, individuals began to be disfranchised for other reasons. As early as 1650 Connecticut—long before their constitution—provided in the Andrus Code, that one publicly whipped was disqualified as a freeman and denied the franchise—see McCulloch, supra, page 39—Connecticut was one of the first States to allow women to participate in school elections.

The alien problem was felt in Connecticut, an Eastern State with industrial and manufacturing areas. In Connecticut:

A constitutional amendment was passed in 1855 prescribing that ability to read the constitution or statutes would be a requirement for exercising the right of suffrage. There is no doubt that this was aimed directly at the foreigners, although natives must have come under it also (see Porter, "History of Suffrage in United States," p. 118).

Massachusetts was first chartered in 1620 by King James, under the charter of New England, which was surrendered in 1639 to King Charles. In 1780 was drawn up the first constitution or form of government for the Commonwealth of Massachusetts. Part the first, article IX, provides:

All elections ought to be free; and all the inhabitants of this Commonwealth, having such qualifications as they shall establish by their frame of government, have an equal right to elect officers, and to be elected, for public employments (Thorpe, 3, supra, p. 1891, art. IX).

What these qualifications are we find in part the second, chapter I, section II, article II:

II. The senate shall be the first branch of the legislature; and the senators shall be chosen in the following manner, viz.; there shall be a meeting on the first Monday in April, annually, forever, of the inhabitants of each town in the several counties of this Commonwealth; to be called by the selectmen, and warned in due course of law, at least 7 days before the first Monday in April for the purpose of electing persons to be senators and councilors and at such meetings every male inhabitant of 21 years of age and upward, having a freehold estate within the Commonwealth, of the annual income of 3 pounds or any estate of the value of 60 pounds, shall have a right to give in his vote for the senators for the district of which he is an inhabitant and to remove all doubts concerning the meaning of the word "inhabitant" in this constitution, every person shall be considered as an inhabitant, for the purpose of electing and being elected into any office, or place within this State, in that town, district, or plantation where he dwelleth, or hath his home.

The selectmen of the several towns shall preside at such meetings impartially; and shall receive the votes of all the inhabitants of such towns present and qualified to vote for senators, and shall sort and count them in open town meeting, and in presence of the town clerk, who shall make a fair record, in presence of the selectmen, and in open town meeting, of the name of every person voted for, and of the number of voices against his name: and a fair copy of this record shall be attested by the selectmen and the town clerk, and shall be sealed up, directed to the secretary of the Commonwealth for the time being, with a superscription, expressing the purport of the contents thereof, and delivered by the town clerk of such towns, to the sheriff of the county in which such town lies, 30 days at least before (the last Wednesday in May) (annually); or it shall be delivered into the secretary's office 17 days at least before the said (last Wednesday in May) and the sheriff of each county shall deliver all such certificates by him received, into the secretary's office, 17 days before the said (last Wednesday in May).

And the inhabitants of plantations unincorporated, qualified as this constitution provides, who are or shall be empowered and required to assess taxes upon themselves toward the support of government, shall have the same privilege of voting for councilors and senators in the plantations where they reside, as town inhabitants have in their respective towns; and the plantation meetings for that purpose shall be held annually on the same first Monday in April at such place in the plantations, respectively, as the assessors thereof shall direct; which assessors shall have like authority for notifying the electors, collecting and returning the votes, as the selectmen and town clerks have in their several towns, by this constitution. And all other persons living in places unincorporated qualified as aforesaid who shall be assessed to the support of government by the assessors of an adjacent town, shall have the privilege of giving in their votes for councilors and senators in the town where they shall be assessed, and be notified of the place of meeting by the selectmen of the town where they shall be assessed, for that purpose, accordingly (Thorpe, 3, supra, p. 1895, art. II, p. 1896).

The provisions of this article as to the time of the meetings for the election of senators who have been superseded by article XV—section 117—of the amendments, as amended by article XLIV, section 201, of the amendments.

Article XV, section 117, of the amendments, ratified in 1855, provided for annual elections:

SEC. 117; ART. XV. Time of election of Governor and legislature: The meeting for the choice of Governor, Lieutenant Governor, senators and representatives, shall be held on the Tuesday next after the first Monday in November (annually); but in case of a failure to elect representatives on that day, a second meeting shall be holden for that purpose on the fourth Monday of the same month of November.

Article LXIV, section 201, of the amendments, approved in 1918, calls for biennial elections:

SEC. 201; ART. LXIV. Biennial election of State officers, councilors, senators and representatives; terms of office: Section 1, the Governor, Lieutenant Governor, councilors, secretary, treasurer and receiver-general, attorney general, auditor, senators and representatives, shall be elected biennially. The Governor, Lieutenant Governor and councilors shall hold their respective offices from the first Wednesday in January succeeding their election to and including the first Wednesday in January in the third year following their election and until their successors are chosen and qualified. The terms of senators and representatives shall begin with the first Wednesday in January succeeding their election and shall extend to the first Wednesday in January in the third year following their election and until their successors are chosen and qualified. The terms of the secretary, treasurer and receiver-general, attorney general, and auditor, shall begin with the third Wednesday in January succeeding their election and shall extend to the third Wednesday in January in the third year following their election and until their successors are chosen and qualified.

The article relating to election of senators was modified by section 74 of the original constitution, chapter II, section III of part the second, which in turn was modified by article X, section 112, and article XIII, section 115, of the amendments, and finally superseded by Article XVI, section 118, of the amendments.

Section 74 of the original constitution read as follows:

Nine councilors shall be annually chosen from among the persons returned for councilors and senators, on the last Wednesday in May, by the joint ballot of the senators and representatives assembled in one room: and in case there shall not be found upon the first choice, the whole number of nine persons who will accept a seat in the council, the deficiency shall be made up by the electors aforesaid from among the people at large; and the number of senators left shall constitute the senate for the year. The seats of the persons thus elected from the senate, and accepting the trust, shall be vacated in the senate.

Article X, section 112, of the amendments, ratified in 1831, modified section 74 by changing the date of the beginning of political years:

SEC. 112; ART. X. Political year; assembling of general court, etc.: The political year shall begin on the first Wednesday of January instead of the last Wednesday of May, and the general court shall assemble every year on the said first Wednesday (of) January, and shall proceed at that session to make all the elections, and do all the acts which are by the constitution required to be made and done at the session which has heretofore commenced on the last Wednesday of May. And the general court shall be dissolved on the next day preceding the first Wednesday of January, without any proclamation or other act of the Governor. But nothing herein contained shall prevent the general court from assembling at such other times as they shall judge necessary, or when called together by the Governor. (The Governor, Lieutenant Governor and councilors, shall also hold their respective offices for one year next following the first Wednesday of January, and until others are chosen and qualified in their stead.)

(The meeting for the choice of Governor, Lieutenant Governor, senators and representatives shall be held on the second Monday of November in every year, but meetings may be adjourned if necessary, for the choice of representatives, to the next day, and again to the next succeeding day but no further. But in case a second meeting shall be necessary for the choice of representatives, such meetings shall be held on the fourth Monday of the same month of November.)

All the other provisions of the constitution, respecting the elections and proceedings of the members of the general court, or of any other officers or persons whatever, that have reference to the last Wednesday of May, as the commencement of the political year, shall be so far altered as to have like reference to the first Wednesday of January.

(This article shall go into operation on the first day of October next following the day when the same shall be duly ratified and

adopted as an amendment to the constitution;—and the Governor, Lieutenant Governor, councilors, senators, representatives, and all other State officers, who are annually chosen, and who shall be chosen for the current year when the same shall go into operation, shall hold their respective offices until the first Wednesday of January then next following, and until others are chosen and qualified in their stead, and no longer—and the first election of the Governor, Lieutenant Governor, senators, and representatives to be had in virtue of this article shall be had conformably thereunto, in the month of November following the day on which the same shall be in force, and go into operation pursuant to the foregoing provision.

All the provisions of the existing constitution inconsistent with the provisions herein contained are hereby wholly annulled.),

Then article XIII, section 115, of the amendments abolished in 1840 the requirement of real property ownership as a qualification for holding State office:

SEC. 115; ART. XIII. Property qualifications for certain offices abolished: No possession of a freehold or of any other estate shall be required as a qualification for holding a seat in either branch of the general court, or in the executive council.

In 1855, Massachusetts adopted article XVI, section 118, of the amendments, which superseded section 74, specifying the number, qualifications and manner of electing councilors:

SEC. 118; ART. XVI. Councilors; number, qualifications, and election of: Eight councilors shall be (annually) chosen by the inhabitants of this Commonwealth, qualified to vote for Governor. The election of councilors shall be determined by the same rule that is required in the election of Governor. The legislature, at its first session after this amendment shall have been adopted, and at its first session after the next State census shall have been taken, and at its first session after each decennial State census thereafterward, shall divide the Commonwealth into eight districts of contiguous territory, each containing a number of inhabitants as nearly equal as practicable, without dividing any town or ward of a city, and each entitled to elect one councilor: *Provided, however,* That if, at any time, the constitution shall provide for the division of the Commonwealth into 40 senatorial districts, then the legislature shall so arrange the councilor districts that each district shall consist of five contiguous senatorial districts, as they shall be, from time to time, established by the legislature. No person shall be eligible to the office of councilor who has not been an inhabitant of the Commonwealth for the term of 5 years immediately preceding his election. The day and manner of the election, the return of the votes, and the declaration of the said elections, shall be the same as are required in the election of Governor. (Whenever there shall be a failure to elect the full number of councilors, the vacancies shall be filled in the same manner as is required for filling vacancies in the senate; and the vacancies occasioned by death, removal from the State, or otherwise, shall be filled in like manner, as soon as may be after such vacancies shall have happened.) And that there may be no delay in the organization of the government on the first Wednesday of January, the Governor, with at least five councilors for the time being, shall, as soon as may be, examine the return copies of the records for the election of Governor, Lieutenant Governor, and councilors; and 10 days before the said first Wednesday in January he shall issue his summons to such persons as appear to be chosen, to attend on that day to be qualified accordingly; and the secretary shall lay the returns before the senate and house of representatives on the said first Wednesday in January, to be by them examined; and in case of the election of either of said officers, the choice shall be by them declared and published; (but in case there shall be no election of either of said officers, the legislature shall proceed to fill such vacancies in the manner provided in the constitution for the choice of such officers).

By referring to article LXIV, section 201, of the amendments, above quoted, it will be seen that the provision for annual elections of councilors, as called for in article XVI, section 118, of the amendments, was changed in 1918 to biennial elections.

Furthermore, the provisions in article XVI, section 118, of the amendments, relating to vacancies, were superseded in 1860 by Article XXV, section 127, of the amendments, which reads as follows:

SEC. 127; ART. XXV. Vacancies in the council: In case of a vacancy in the council, from a failure of election or other cause, the senate and house of representatives shall, by concurrent vote, choose some eligible person, from the people of the district wherein such vacancy occurs, to fill that office. If such vacancy shall happen when the legislature is not in session, the Governor, with the advice and consent of the council, may fill the same by appointment of some eligible person.

Returning now to part the second, chapter I, section II, article II, dealing with the qualifications of electors for senators, we find that the provisions of this article as to the qualifications of those electors were superseded by article III, section 105; article XX, section 122; article XXVII, section 130; article XXX, section 132; article XXXI, section 133; article XXXII, section 134; and article XL, section 142, of the articles of amendment.

Article III, section 105, of the articles of amendment, was approved in 1821. It specified the qualifications of voters for Governor, Lieutenant Governor, senators, and representatives, leaving them much as they were previously, with the exception that ownership of property was no longer a prerequisite:

SEC. 105; ART. III. Qualifications of voters for Governor, Lieutenant Governor, senators and representatives: Every (male) citizen of 21 years of age and upwards, excepting paupers and persons under guardianship, who shall have resided within the Commonwealth 1 year and within the town or district in which he may claim a right to vote 6 calendar months (next preceding) any election of Governor, Lieutenant Governor, senators, or representatives (and who shall have paid, by himself or his parent, master or guardian, any State or county tax, which shall, within 2 years next preceding such election, have been assessed upon him in any town or district of this Commonwealth; and, also, every citizen who shall be, by law, exempted from taxation, and who shall be, in all other respects, qualified as above mentioned), shall have a right to vote in such election of Governor, Lieutenant Governor, senators, and representatives; and no other person shall be entitled to vote in such election.

This article of amendment was subsequently amended in 1924 by article LXVIII, section 208, of the amendments, which removed the sex qualification for voting.

The clause relating to the payment of taxes was annulled by article XXXII, section 134, of the articles of amendment, above quoted, in 1891.

Language disqualifying persons found guilty of corrupt practices in elections was added in 1912 by article XL, section 142, of the articles of amendment.

The requirement of residence in town or precinct for 6 months next preceding the election was modified in 1890 by article XXX, section 132, of the articles of amendment, which reads as follows:

SEC. 132; ART. XXX. Voters not disqualified by reason of change of residence until, etc.: No person, otherwise qualified to vote in elections for Governor, Lieutenant Governor, senators, and representatives, shall, by reason of a change of residence within the commonwealth, be disqualified from voting for said officers in the city or town from which he has removed his residence, until the expiration of 6 calendar months from the time of such removal.

An amendment in 1859 restricted the vote of naturalized citizens—article XXIII, section 125, of the amendments—reads as follows:

No person of foreign birth shall be entitled to vote, or shall be eligible to office, unless he shall have resided within the jurisdiction of the United States for 2 years subsequent to his naturalization, and shall be otherwise qualified, according to the constitution and laws of this Commonwealth: *Provided,* that this amendment shall not affect the rights which any person of foreign birth possessed at the time of the adoption thereof; and, *Provided, further,* that it shall not affect the rights of any child of a citizen of the United States, born during the temporary absence of the parent therefrom.

This amendment was repealed in 1863 by article XXVI section 128 of the amendments.

Article XX, section 122, of the amendments, adopted in 1857, imposed a literacy requirement on electors:

SEC. 122; ART. XX. Reading constitution in English and writing, necessary qualifications of voters: No person shall have the right to vote, or be eligible to office under the constitution of this Commonwealth, who shall not be able to read the constitution in the English language, and write his name: *Provided, however,* That the provisions of this amendment shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any persons who shall be 60 years of age or upwards at the time this amendment shall take effect.

Article XXVIII, section 130, of the articles of amendment, was adopted in 1881 to remove the pauper disqualification from ex-servicemen receiving public aid:

SEC. 130; ART. XXVIII. Ex-servicemen receiving public aid, etc., not disqualified to vote: No person having served in the Army or Navy of the United States in time of war, and having been honorably discharged from such service, if otherwise qualified to vote, shall be disqualified therefor on account of (being a pauper); or (if a pauper) because of the nonpayment of a poll tax.

In 1890 we find that this article—that is, article XXVIII, section 130, of the amendments—was amended by article XXXI, section 133 of the amendments, to make it possible for ex-servicemen receiving aid from cities or towns to vote:

SEC. 130. Article XXVIII, ex-service men receiving public aid, etc., not disqualified to vote: No person having served in the Army or Navy of the United States in time of war,

and having been honorably discharged from such service, if otherwise qualified to vote, shall be disqualified therefor on account of receiving or having received aid from any city or town.

Article XXX, section 132, of the articles of amendment was approved on November 4, 1890. Its terms, already quoted, relaxes the requirements as to *residence of electors.*

Article XXXI, section 133, of the amendments, already has been referred to in connection with article XXVIII, section 130, of the amendments.

Article XXXII, section 134, of the amendments, annulling the requirement of the payment of a tax as a voting qualification, to which I have already referred, was ratified in 1891.

Article XL, section 142, of the articles of amendment, was ratified in 1912. With its adoption, along with the amendments previously referred to, part the second, chapter I, section II, article II, was in effect made to read as follows:

SEC. 105. Article III, qualifications of voters for Governor, Lieutenant Governor, senators, and representatives: Every citizen of 21 years of age and upwards, excepting paupers and persons under guardianship and persons temporarily or permanently disqualified by law because of corrupt practices in respect to elections, who shall have resided within the Commonwealth 1 year, and within the town or district in which he may claim a right to vote, 6 calendar months next preceding any election of Governor, Lieutenant Governor, senators, or representatives, shall have a right to vote in such election of Governor, Lieutenant Governor, senators, and representatives; and no other person shall be entitled to vote in such election.

The qualifications for voting for the house of representatives is similar; it is found in part the second, chapter I, section III, article IV, as adopted in 1780.

Article IV. Every male person, being 21 years of age, and resident in any particular town in this Commonwealth for the space of 1 year next preceding, having a freehold estate within the same town of the annual income of 3 pounds, or any estate of the value of 60 pounds, shall have a right to vote in the choice of a representative or representatives for the said town (Thorpe, 3, supra p. 1898, art. IV).

In 1821 Massachusetts amended the above constitutional provision relating to qualifications of electors for representatives, by approving article III, section 105—as above cited, under qualifications of electors for senators—by eliminating the property requirements.

In 1857 a literacy requirement was imposed by article XX, section 122, of the amendments—as above cited under qualifications of senators.

In 1881 the provision denying the vote to paupers was qualified by permitting honorably discharged veterans on pension rolls to vote. This was accomplished by approving article XXVIII, section 130, of the amendments—as above cited under qualifications of senators.

In 1890, article XXXI, section 133, of the amendments was ratified broadening the sources of such pensions to include cities or towns—as above cited under qualifications of senators.

Article XXXII, section 134, of the amendments, adopted in 1891, annulled the requirement that voters shall have paid assessed taxes as a prerequisite to voting—as above cited under qualifications of senators.

In 1917 article XLV, section 147, of the amendments was ratified, to permit absentee voting, as follows:

Sec. 147. Article XLV, powers of the general court to provide for absentee voting: The general court shall have power to provide by law for voting, by qualified voters of the Commonwealth who, at the time of an election, are absent from the city or town of which they are inhabitants (in the choice of any officer to be elected or upon any question submitted at such election).

This provision was subsequently modified in 1944 to extend the privilege of voting in absentia to persons physically disabled, by article LXXVI, section 216, of the amendments. This amendment resulted in article XLV, section 147, of the amendments, reading as follows:

SEC. 147. Article XLV, powers of the general court to provide for absentee voting: The general court shall have power to provide by law for voting, in the choice of any officer to be elected or upon any question submitted at an election, by qualified voters of the Commonwealth who, at the time of such an election, are absent from the city or town of which they are inhabitants or are unable by reason of physical disability to cast their votes in person at the polling places.

In the early days Massachusetts had the property requirement frequently found in constitutions and later outmoded. Porter says:

Ideal starting points could readily be found in the abstractions of the Declaration of Independence. Here is a resolution passed in the Massachusetts constitutional convention of 1779. *"Resolved,* That it is the essence of a free republic that the people be governed by fixed laws of their own making." This particular convention was perfectly honest in this declaration and still considered it thoroughly consistent to restrict "the people," who should govern the State, to property owners. Such resolutions as this were later turned against the very men who made them. Abstract propositions of right continually proved to be boomerangs and struck with telling force. "All elections ought to be free, and all the male inhabitants of this Commonwealth, having sufficient qualifications, have an equal right to elect officers." The little phrase about having sufficient qualifications was weak indeed against the contention that all the male inhabitants had an equal right to elect officers. (Porter, "History of Suffrage in United States," p. 28.)

In speaking of Massachusetts and Pennsylvania, "Massachusetts," says Porter, "considered the people to be the property owners."

The transition from the property-owner requirement in Massachusetts was a very slow one.

In Massachusetts the property qualification for suffrage had made its last stand in 1820, when a constitutional convention was called to amend the old constitution. Popular interest was aroused in the matter of suffrage extension, and there was every indication that property was going to be hard pressed to hold its own. The sentiment prevailed that every man who was subject to do service for the State or who contributed to its support in the way of taxes was entitled to a vote. The practical side of the issue was stressed much more than the philosophical. Why the ballot should have been looked upon as the only fitting reward for paying taxes it is hard to see. The State protects life, liberty, and property and performs all the obligations and functions implied thereby. But these seem not to have been recognized as a return for taxation. Suffrage extensionists seem to have blinded themselves to the many good things they have received from the State as citizens, not as voters.

The defenders of property tests quickly demolished the theory of right invoked by those seeking to extend the suffrage. The argument was then immediately shifted to the question of expediency. It was said that the property test encouraged industry, economy, and prudence and gave dignity and importance to those who chose and those who were chosen. Further, it was said that men who had no property should not act, even indirectly, on those who had, and exploit their wealth. To permit these things would work ruin to the State. Other men believed that the property qualification had a very salutary effect on young men, inducing them to practice industry and careful habits.

It is also interesting to note some perversions of the old democratic arguments. It was said that to let the unpropertied vote would surely mean their exploitation by employers, and then the State would have, not a free electorate, but one controlled by capitalists able to swing elections at will. Another perversion that had been used before was utilized to defend the taxpaying qualification. Instead of "no taxation without representation," it was declared there should be "no representation without taxation." The most talented statesmen of the country were present and defended the property test in one way or another. The venerable John Adams was there and painted dire pictures of what would happen if the franchise were extended. Daniel Webster and Joseph Storey gave ample support. But in spite of all this talent, property tests did not stand a chance. The arguments were attacked sometimes with able retorts, more often with fallacious reasoning; but it made no difference, men had had enough of special privilege and were determined to get rid of discrimination on the basis of property. Men said that they had a natural right to vote, but it only took a few words to ruin their argument utterly. Men said that they should not be governed without their consent, but the others pointed to the Negroes. Men said that they should not be taxed without being represented, but the others pointed to women. Men said that universal suffrage was a glorious ideal, but the others pointed to minors. Men said that they should be permitted to vote in order to defend their rights, but the others pointed to manifold benefits received from the Government even by those who could not vote. Finally men said that they were going to vote anyhow, and the others threw up their hands in despair.

The best talent in the country, profound arguments, historical evidence presented by the learned Adams, all the conservative forces of the State, could not stay the onward sweep of suffrage expansion. The only thing that accounts for it is a deep-seated, firm, but more or less unreasoning, conviction that all men should vote. Rude men from rural districts would stand helpless before the intellectual statesmen thundering at them in resounding periods. They would voice a few idle arguments and then vote on the strength of their inbred conviction. The most impressive thing about this entire movement toward broader suffrage is that men came to be filled with a fixed determination that as this country was a democracy all men should have a hand in running it. They were ready to argue, but were determined to have their way in any event. The political thought of the past 20 years had brought men to a realization that they were part of the Gov-

ernment, and now they wanted to get their hands in it. But in Massachusetts the process had been very slow. It will be remembered that the normal progress was from real estate property tests to a personal property alternative, to taxpaying, and then to no limitation. Massachusetts had reached only the point of transition from the personal property alternative to taxpaying, for this convention provided an amendment to the Constitution that all who paid a State or county tax should vote (Porter, "History of Suffrage in United States," pp. 69–72).

In 1853 a convention was held in Massachusetts and the taxpaying qualification came in for thorough debate. As it was the last time the question was discussed on the basis of the old standards it may be worth while to give the arguments some attention, although not much that was new appeared. The history of suffrage in Massachusetts had been typical. There had first been real estate qualifications, then the personalty alternative, then the substitution of taxpaying, and now even that was nearly worn out. The smallness of the tax was much dwelt upon. As it was only a dollar and a half, advocates thought that no objection should be made. But it was pointed out that whether or not the poor man could afford that small sum, or ought to afford it, he simply would not. It would seem to him like throwing money away, and he would prefer to lose his vote. This undoubtedly was true, and it was also true that the conservatives hoped that just that thing would happen.

It is unnecessary to review the old arguments. "All governments derive just powers from the consent of the governed. Nontaxpayers are part of the governed. Men should be represented in government—not their dollars."

NOTE.—Massachusetts Convention, 1853, Debates: A member said that he quoted Benjamin Franklin, as follows: "You require that a man shall have $60 worth of property, or he shall not vote. Very well, take an illustration. Here is a man today who owns a jackass, and the jackass is worth $60. Today the man is a voter and goes to the polls with his jackass and deposits his vote. Tomorrow the jackass dies. The next day the man comes to vote without his jackass and he cannot vote at all. Now tell me, which was the voter, the man or the jackass?" Fortunately, someone informed the gentleman that he was quoting Tom Paine and not the venerable Franklin.)

On the other hand, "representation should only go with taxation"; "those who pay for supporting the government should have the exclusive right to control it." All these and other arguments were of course exploited. And the never-failing natural rights philosopher was also present.

(NOTE—Mr. Simonds spoke thus: "You have no right to deprive him of this privilege. And I ask if it is not time that we should assert this declaration of the Bill of Rights, that this is a right which belongs to every man—a right which we can neither give nor take away from him?")

A strong effort was made to introduce a new sort of compromise. It was proposed to retain the taxpaying qualification for town meetings. Indeed, it was remarkable that so many were willing to grant full suffrage for everything except town elections. They seemed not to care so much who voted for President and Governor, but only the best men in the community should vote for hogreeve. It is a striking illustration of the reverence and jealousy men held for the time-honored town meetings. In the rural districts it was the most important thing in their lives.

The small tax requirement hung on, however, for 10 years longer, and finally gave way in 1863. North Carolina abolished her requirement in 1868. That left Delaware, Pennsylvania, and Rhode Island. The first of these did not give it up until 1897, and it still holds in the other two States; but it must be remarked again that any kind of a tax requirement connected with suffrage since 1860 has been practically nothing but a registry fee, and several States accomplish the same end by requiring that men must pay their poll taxes before voting. The old-fashioned taxpaying test as a compromise with property qualifications was gone before the Civil War (Porter, supra, pp. 108–111).

As immigration was heavier in Massachusetts and neighboring States than almost anywhere else, the antialien feeling ran higher.

In Massachusetts there was an even more determined effort to get rid of the foreigner, and more elaborate steps were taken there than anywhere else. In 1857 an amendment to the constitution was passed requiring that all voters must be able to read the constitution and write their own names. And in order to pacify a certain portion of the native element that would find such a test prohibitive, it was not to apply to anyone over 60 years of age or to anyone who already exercised the franchise. Two years later another amendment was passed requiring foreigners to remain in the State for 2 years after naturalization before they could vote. This seems to mark the highest point in the opposition to aliens, and it is worth noting that it was the ignorant, poverty-stricken, famished, unwashed Irish Catholic rowdy whom the country may thank for bringing forth literacy tests. They were applied freely to the Negro in future years and today are being used on general principles, but they originated practically for the benefit of the Irishman (Porter, supra, pp. 118–119).

When the women's suffrage problem arose, the arguments advanced were the old ones turned to a new use:

There was no trouble in adjusting the old arguments to suit the new occasion. For more than half a century the advocates of broader suffrage had been filling up their arsenal with weapons to use upon conservatives. Many of the liberals were shocked beyond expression and left speechless when the women raided their armory, took their weapons, and went forth to use them as they had seen them used by men. Natural, inalienable, inherent right. No taxation without representation. Government by consent of the governed. All that oldtime revolutionary philosophy with its mixture of truth and abominations was revived once more and spread broadcast by the abolitionists and woman-suffrage advocates alike.

Characteristic of this sort of argument is a statement to be found in the records of the Massachusetts constitutional convention of 1853: "I maintain first that the people have a certain natural right, which under special conditions of society manifests itself in the form of a right to vote. I maintain secondly that the women of Massachusetts are people existing under these special conditions of society. I maintain finally, and by necessary consequence, that the women of Massachusetts have a natural right to vote."

That is the sort of argument that marked the beginning of the woman-suffrage movement. Once more the strange phenomenon appeared—the suffrage expanding on a wave of specious doctrine. But it caught the popular fancy and served to bring the issue forward (Porter, supra, pp. 140–141).

However, at that time Massachusetts voted the measure down by a large majority.

Mr. President, the next State in my discussion of the history of suffrage among the Thirteen Original Colonies would be Maryland, but, since my time has expired under the unanimous-consent agreement, it will be necessary for me to postpone until some future time the remainder of my historical survey. At this time I should like to propound a parliamentary inquiry.

The PRESIDING OFFICER (Mr. CANNON in the chair). The Senator will state it.

Mr. ELLENDER. I have had the floor now for 3 hours. When I took the floor at 3:15 p.m. I asked unanimous consent to yield to several Senators, and they took 10 minutes. Am I charged with that time? Is that the parliamentary situation?

The PRESIDING OFFICER. According to the records of the Parliamentarian, the Senator from Louisiana yielded to other Senators during the period 3:03 p.m. until 3:13 p.m. The Senator's 3 hours commenced to run at 3:15 p.m. Therefore, at 6:15 p.m. his 3 hours will have expired. It is that time now.

Mr. ELLENDER. Very well. I appreciate the indulgence of the majority and minority leaders.

Mr. DIRKSEN and Mr. EASTLAND addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIRKSEN. Mr. President, has the Senator from Louisiana finished? Have I been recognized?

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DIRKSEN. Mr. President, I understand the distinguished Senator from Mississippi [Mr. EASTLAND] is prepared to make some extended remarks on the subject.

Mr. EASTLAND. That is correct.

Mr. DIRKSEN. Mr. President, I ask unanimous consent to yield for the statement to be made by the distinguished Senator from Mississippi, without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. EASTLAND. Mr. President, let me make clear I am speaking now, of course, by unanimous consent, but I want the RECORD to show I strenuously oppose the pending bill, and I am going to oppose the bill with every ounce of strength I possess. Later in this debate I shall speak in my own right.

I have been on the floor now a great number of times for nearly 2 months, day and night. I am opposed to this bill. I am opposed to its passage in any form. I am going to continue to oppose it.

Mr. President, the voting referee proposal contained in title VI of H.R. 8601 is a new, novel, unique, and revolutionary plan for the Federal Government to take over control of the entire voting machinery of the Southern States. Unveiled for the first time when Attorney General William P. Rogers testified before the Senate Committee on Rules and Administration on February 5, 1960, this short, less than 2 month period since that time, has been an entirely inadequate period to give to the plan the care and consideration it deserves.

Since the debate on proposed civil rights legislation started on February 15,

1960, and has been continuous since that time, opponents of the voting referee plan have had no opportunity to engage in the legal study and research necessary to develop the legal and constitutional questions that are raised by every line, sentence, and paragraph of this proposed constitutional monstrosity.

I daresay that only a handful of Senators have yet had the time to read the revealing testimony that was developed before the Senate Judiciary Committee on March 28 and 29, 1960. The Attorney General and Deputy Attorney General, Lawrence E. Walsh, were the two witnesses favoring the plan, and the only opposition witness was the Honorable Charles J. Bloch, of Macon, Ga. Mr. Bloch, in addition to being one of the greatest trial lawyers in the United States, is also recognized as one of the most competent of all the members of the American Bar Association in the complex field of constitutional law.

Unfortunately, not only for the Senate, but for Congress as a whole, and the people everywhere, Mr. Bloch, although occupying the witness chair for 3½ hours, was able to cover only the first paragraph of the proposal, which contains a total of 10 paragraphs. This most graphically illustrates the handicap under which the opponents of this proposed measure must labor. Mr. Bloch advised me that he could spend an equal, or even greater, length of time, developing the legal deficiencies of the remaining nine paragraphs, and that he would not then even begin to exhaust the subject matter.

This whole business started with a recommendation that was made to Congress by the Civil Rights Commission that the President of the United States be authorized by law to appoint so-called Federal election registrars to take over the election machinery insofar as elections involving Members of the House of Representatives, Senators, and presidential electors are concerned. The Attorney General publicly, and repeatedly, expressed grave doubts as to the constitutionality of many aspects of the "Registrar Plan." Then he countered by devising the scheme that is now before the Senate. Remarkable as it may seem, although I do not intend to discuss the Federal Registrar today, the Attorney General's substitute plan is even more unconstitutional, if such is possible, than the one which was proposed by the Civil Rights Commission. At least it can be said that the Commission stopped with an attempt to control elections involving only Federal officeholders. The Attorney General proposes to effect Federal control over all State, district, county, and even municipal elections. The offices involved extend all the way from constable, coroner, and ranger, officeholders in the smallest of the county subdivisions, through the mayors and municipal offices, to that of the highest in the State, the Governor.

The Attorney General seeks the new powers for the Federal Government through the instrumentality of the 15th amendment to the U.S. Constitution. He admits this kind and character of power has never been sought before, even in the dark ages of the Reconstruction period. What he proposes to do is to convert a negative, a prohibition, into a positive and an affirmative. Alchemists of old were never able to transform baser metals into gold. But the Attorney General sees no particular difficulty in converting the prohibition, and it is only a prohibition, contained in the 15th amendment, which says:

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Title VI of H.R. 8601 attempts to convert this "thou shall not" in the 15th amendment into a "thou shall." Instead of prohibiting a course of conduct, which is the extent of Federal power in this field of voting, it attempts to prescribe the course of conduct and convert the Federal district court judges into agents of the Government who will be authorized to take over and supervise the entire election machinery of the State.

The Civil Rights Act of 1957, obnoxious as it may be, recognized the principle that the scope of the 15th amendment extended to only preventive relief. Subsection (c) of section 1971, title 42, United States Code, provides:

(c) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b), the Attorney General may institute for the United States, or in the name of the United States, a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

The only possible relief the Attorney General can seek here is preventive relief—thou shalt not relief—not thou shall relief. Now, Mr. President, when we pass this point the Constitution is left behind. And the voting referee plan in title VI starts beyond this point.

Title VI says:

In any proceeding instituted pursuant to subsection (c)—

That is, subsection (c) of the Civil Rights Act of 1957 which I just quoted—

in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a)—

This is the subsection that provides against denial or abridgment by the State of the right to vote on account of race or color—

the court shall upon request of the Attorney General and after each party has been given notice and the opportunity to be heard, make a finding whether such deprivation was or is pursuant to a pattern or practice.

The $64 question involved in this sentence is, "What is a pattern or practice?" The judge is entitled to know what this means. The defendant registrar needs to know what it means in order to defend against the action. Congress ought to have some idea of what it means before it writes it into law.

Mr. Bloch testified that he made every effort to find its legal meaning and the best he could do was this:

Now then, you run into a definition of the phrase, "What do you mean by pattern or practice?"

I could not find in "words and phrases" the words coupled up at all, any adjudicated meaning, but I do find that "practice" standing alone, has been defined by a New York court as "custom." Other courts define it as a habit or regular conduct. The cases are given in my memorandum, and there used to be or maybe there still is—I am sorry Senator HENNINGS had to go, he could have told us—a Missouri constitutional provision which provides that nothing therein was intended to justify the practice of wearing concealed weapons. The word "practice" there was defined as having reference to an existing custom of wearing such weapons concealed, more or less generally among citizens, and not to the practice of any particular individual accused of the crime of wearing such weapons.

In fairness, Mr. President, if Congress is to pass this legislation it should spell out the meaning of "pattern or practice." This, as soon will be seen, is the key that opens the door to the entire procedure of voter qualification. This is the basis on which the State election machinery is to be proscribed by the Federal courts. We have a right to know what it means and how its determination will be made.

Judge Walsh was asked about this business of a "pattern or practice." This is the colloquy which occurred in the Judiciary Committeee:

Senator MCCLELLAN. Now, what constitutes a pattern?

Mr. WALSH. A pattern of discrimination would be discrimination that was widespread beyond an individual case. It would be the burden to be carried by the Attorney General which would be to prove this was the usual rather than the unusual situation.

Senator MCCLELLAN. What constitutes a practice?

Mr. WALSH. Practice would be very much the same thing. Not only was it usual but it has been indulged—I mean the words have their generic meaning; there is no word of art involved.

Senator MCCLELLAN. No. But certainly the turning down, if you proved that you had turned down one Negro or even two Negroes at the same time, that would not necessarily establish a pattern or practice, would it?

Mr. WALSH. Not necessarily.

Senator MCCLELLAN. To establish a practice wouldn't there have to be repeated acts?

Mr. WALSH. I think that would be the general sense of it; yes, sir.

Senator MCCLELLAN. In other words, the fact that they come in and show that one fellow complains and you get a suit in there, and the evidence shows that that would be insufficient to establish a pattern or practice——

Mr. WALSH. In any case I can think of; yes, sir.

Senator MCCLELLAN. In other words, to establish either there would have to be a repetition.

Mr. WALSH. Yes, sir.

Senator MCCLELLAN. Would that repetition, could that repetition, occur in just one election?

Mr. WALSH. Yes.

Senator MCCLELLAN. Or must it occur over a period of years?

Mr. WALSH. There is no limit provided in the bill.

Senator MCCLELLAN. What is your interpretation of it as a judge?

Mr. WALSH. I think it would depend on the facts of the individual case, but it could be one election.

Senator MCCLELLAN. Then can you give us any facts where it would require extension over a period of years?

Mr. WALSH. It would seem to me if you could show that was the uniform practice for a single election, that would certainly satisfy the statute.

Senator MCCLELLAN. How can you establish a practice by just one single act or one or two acts, is what I am trying to find out.

Mr. WALSH. Well, the number of individual acts related to a single election would vary. I do not know how many there would be.

The CHAIRMAN. Would that be in a county now or a judicial district?

Mr. WALSH. It could be either one—really, it would relate to the area administered by the single officer.

The CHAIRMAN. You mean by the judge, the district judge?

Mr. WALSH. No; I was thinking of the State officer, Senator, Mr. Chairman.

The CHAIRMAN. Well, it would be on a county basis, then?

Mr. WALSH. It would depend; I do not know whether all States have registrars on a county basis or not.

The CHAIRMAN. Well, they do.

I fail to see where Judge Walsh here casts any real light on the meaning of "pattern or practice." Courts and litigants both need guidelines. If Congress is going to enact statutes, it should include these guidelines.

Fortunately, I recalled a case that may cast some light on this matter of pattern or practice. It arose in Mississippi and it involves voting rights under the same statutes to which the presently proposed legislation is directed. You will not hear or find this case cited by the Attorney General or any of the proponents of civil rights legislation. These judges were not concerned with politics, or corralling Negro voters; their concern was with the Constitution, applicable statutes, and the facts. Their findings, both as to law and facts, while conclusively true, are distasteful to both the Department of Justice and civil wrongs proponents.

The court hearing this case was a three-judge constitutional court composed of Judge Ben Cameron, of the U.S. Court of Appeals for the 5th Circuit, and U.S. District Judges Sidney Mize and Claude Clayton. The style of the action is H. D. Darby, on behalf of himself and others similarly situated, plaintiff, against James Daniel, circuit clerk of Jefferson Davis County, Miss., and Joe. T. Patterson, attorney general of the State of Mississippi. The case is reported in 168 Federal Supplement 170, 194–195. This case was not, I repeat, was not appealed to the U.S. Supreme Court as the plaintiff had a right, and the NAACP sufficient money so to do. In the first part of the portion of the opinion that I am now going to read it will be noted that the court is concerned with an alleged "practice" of voter discrimination. Reading now from part III of the opinion:

(1) This brings us to the contention that plaintiffs, along with other Negroes, were actually discriminated against in the administration of the constitution and laws of Mississippi by defendant Daniel. If such discrimination was practiced against plaintiffs, the actions of defendant would certainly come under the condemnation of the 15th amendment, or the 14th amendment, or both. Plaintiffs put on the witness stand a number of other Negroes, but we look first to their own testimony to determine if either plaintiff proved that he was qualified to register under the constitution and laws of Mississippi and was denied registration because of his race.

While this next portion of the opinion is not pertinent and relevant to "pattern or practice," it so thoroughly covers the matter of "qualified voters under State law" that I now desire to read it:

Plaintiff Dillon, conceding that she was properly given the written test provided by the amendment, failed to produce a copy of that test for the court's inspection. She did not demonstrate in her oral testimony the possession of the qualifications provided in the Mississippi constitution and statutes, and there is no proof at all, therefore, that she had any status to maintain this action.

According to the testimony of his attorney, Plaintiff Darby approached him in April or May 1956, about the time he wrote President Eisenhower. The attorney called the NAACP, which, some time later, agreed that its legal fund would pay the attorneys and the expense of any litigation which might be brought by Reverend Darby.

This was before his first written application of June 29, 1956, in which he stated that he was a farmer. The application was signed by him but was not filled in. It is not claimed that, in this application or the oral tests which came after it, Plaintiff Darby showed himself qualified to register. The entire case is predicated on the sworn written application of June 22, 1957, which he took under his attorney's advice and direction. This document, read in the light of the testimony of Plaintiff Darby, reveals several deficiencies.

He made no answer to question No. 14 inquiring if he had ever been convicted of the crimes enumerated in the question; considerable portions of the answers written by plaintiff are illegibile. In response to question No. 18 calling upon him to copy section 123 of the constitution of Mississippi, he wrote six lines not called for by the question and not possessing marked coherence. In giving his reasonable interpretation of that section he wrote: "The Govenner govends all the works of the State and he is to see that all the vollatores be punished and als he can pardon out the penetenter ane pherson." In answering question No. 20 which directed him to write his understanding of the duties and obligations of citizenship under a constitutional form of government, he wrote five lines which could hardly be called accurate or responsive to the question.

That he could not write legibly is exemplified by examination of the several documents in the record written by him, and is further attested by the fact that the letter he sent the President was written entirely by someone else, including the signature. He did not attempt, while on the witness stand, to demonstrate that he could read. Every other Negro witness he placed on the stand was given a section of the Mississippi constitution to read before the court, but plaintiff himself did not attempt to show his ability to read. The evidence does not, therefore, support the burden imposed on the plaintiffs to show that they were qualified to be registered as voters. A fortiori it does not establish that Defendant Daniel did not act in good faith or exercise a sound discretion when he made his decision that plaintiffs had not passed the examinations given them.

In passing judgment on this phase of the case we cannot leave out of view that defendant Daniel knew that he was under surveillance by Federal officials and that he was dealing with one party who was acting under advice of counsel.

It is fundamental that plaintiffs must stand or fall on the merits of their own case. The Supreme Court stated the principle in *McCabe* v. *A.T. & S.F. Ry. Co.* (1914, 235 U.S. 151, 162), in these words:

"But we are dealing here with the case of the complainants, and nothing is shown to entitle them to an injunction. It is an elementary principle that, in order to justify the granting of this extraordinary relief, the complainant's need of it, and the absence of an adequate remedy at law, must clearly appear. The complainant cannot succeed because someone else may be hurt. Nor does it make any difference that other persons, who may be injured are persons of the same race or occupation. It is the fact, clearly established, of injury to the complainant—not to others—which justifies judicial intervention."

This citation from McCabe against A.T. & S.F. Railway Co. is most interesting in view of what title VI proposes to be done—give to one or more persons a substantive right because it is established that other persons or person of the same race have suffered an alleged wrong. This is a matter I will later discuss.

Returning to the opinion and the matter of a pattern or practice, the opinion states:

(2) Plaintiffs served subpenas on 25 Negro witnesses, of whom 15 were placed upon the stand. Despite the principles last above quoted and such cases as *Reddix* v. *Lucky* ((5 Cir., 1958) 252 F. 2d 930, 938), holding that "obviously the right of each voter depends upon the action taken with respect to his own case," we permitted this testimony to be introduced over objection to give plaintiffs a chance to show that there was a class whose rights they might carry if they established their own case, and also that the testimony might be considered as furnishing circumstantial evidence of discrimination in favor of the case of plaintiffs. Although some of the written applications exhibited in connection with the testimony of these witnesses were sufficient to raise an issue of fact as to their qualifications, it is not our province to set ourselves up as registrar of voters.

Some of the testimony certainly demonstrated the absence of qualifications of the applicants. For example, when called upon by question 18 to copy section 198 of the Mississippi constitution, Johnnie B. Darby, plaintiff Darby's wife, wrote: "I have so agreed to be as good a citizen as I possible can I have not yet read the constitution of Mississippi I do try to abide by truth and right as the almighty God provide the understanding and wisdom."

Another witness called upon to copy section 16 of the constitution wrote: "Ex post facto laws or laws impaitring obligations contrace St. Shall Be passed." Interpreting that section this same witness wrote: "A man must pay pold tax befor he eagable to voat." This witness gave his occupation as that of teacher.

None of these witnesses took appeals from Daniel's ruling declining to permit them to register. Four of the fifteen passed the written examination, and of those who failed, the wives of two passed. He gave the test to some of the witnesses as many as four times and he invited plaintiff Dillon to come back and try again. The testimony of these witnesses adds little to the solution of the problem before us.

(3) Plaintiffs introduced 1 bound volume containing 78 original applications. The documents do not show whether the applicants were white or colored. It seems

probable that the purpose of introducing this volume was to show that, during this period, all applicants were required to take the written examination, whereas under the constitutional amendment those who were registered voters on January 1, 1954, were required to take only the oral test habitually given under the original constitution. This does not prove anything which was not readily admitted by defendant Daniel. From the time Daniel came into office January 1, 1956, until the attorney general of Mississippi advised him of his error, he had been using the forms furnished him by the State election commissioners and testing all applicants by written examination. As far as the testimony goes, none had objected. The point of this testimony, however, is that undisputedly white and colored were treated exactly alike. Since, according to the undisputed proof, there were only 40 to 50 Negro voters registered in the county, the 78 applicants, all of whom passed, necessarily included some white people.

The wrongful interpretation, or the misapplication of Mississippi law alone, would not give this court jurisdiction or amount to deprivation of any constitutional rights. Under this phase of the case discrimination alone, resulting from the fact that plaintiffs are Negroes, can justify maintaining the action or granting the relief sought. The Supreme Court announced the principle in explicit terms in *Snowden* v. *Hughes et al.* (1944, 321 U.S. 1, 8), (a case in which *Williams* v. *Mississippi, supra,* was cited with approval) where the dismissal of an action for want of jurisdiction was approved where a candidate for office sought equitable relief against party officials who refused to certify him as a candidate.

The essence of the action before us, therefore, is discrimination on the part of the defendant Daniel—discrimination against plaintiffs, Negroes, and in favor of white persons. After listening to the oral testimony and examining the documents carefully we are unable to find any tangible or credible proof of discrimination. There is no proof that any white person was ever treated in any manner more favorably than plaintiffs or any other Negroes.

The mere showing that of 3,000 qualified voters in Jefferson Davis County, only 40 to 50 are Negroes is not sufficient. Plaintiffs carry the burden of showing that plaintiffs have been denied the right to register because they are Negroes, and that white people similarly situated have been permitted to register. This record contains no such proof. The disparity between numbers of registrants, as has been so often pointed out, results doubtless from the fact that one race had a start of several centuries over the other in the slow and laborious struggle toward literacy. This record does not, in our opinion, show that defendant has practiced discrimination. From our observation of his demeanor during the trial and while on the witness stand and of the evidence generally we are convinced that he has shown himself to be a conscientious, patient, and fair public official, exerting every effort to do a hard job in an honorable way.

Mr. President, I knew this circuit clerk of Jefferson Davis County, Miss. He is a very honorable man and a very high-class man, and he performed the duties of his office in a most conscientious and honorable way. This county has not permitted outside agitators to come in and take over the local governmental affairs of their county.

The court, as a matter of grace, gave to these plaintiffs every right. The Attorney General is now seeking to show that a pattern or practice of discrimination existed in Jefferson Davis County. The plaintiffs were granted the privilege of introducing a mass of incompetent, immaterial, and irrelevant evidence which the court carefully considered. There was no practice or pattern. The court found and demonstrated that the argument of 3,000 qualified voters in Jefferson Davis County, with only 40 to 50 being Negroes, is not sufficient to establish discrimination. The court was accepting evidence and information. It had no guideline, and did not try to establish one, as to what a pattern or practice might be. So when this Congress is asked to enact this device of a "pattern or practice" into law, for the use and benefit of the Attorney General, it should be defined, and its limits established and determined. "Pattern and practice," as it now is in title VI of this bill, is no more or less than a blank check, signed by Congress, with the unknown amount to be later entered by the Attorney General.

Mr. President, at this point in the proposed proceedings the Attorney General has been engaged in a lawsuit, representing one or more named plaintiffs, with the defendant being a county registrar of voters, and possibly the State attorney general, as was true in the Mississippi case I have cited. The Government won the case. The Court held that the named complainants were in fact qualified voters under the law of the State, and had been discriminated against on account of their race or color. An order is issued against the defendant registrar, requiring him to qualify the complainants as voters, and that they be permitted to vote. An injunction is directed against the registrar, directing him to cease and desist from discriminatory practices—this is according to the Deputy Attorney General's testimony. Then the new step comes into play: The Attorney General requests that the Court make a finding as to whether a pattern or practice of discrimination exists. This is mandatory on the Court. He must make such a finding.

There is a serious question here as to whether this finding is to be made in a normal adversary proceeding. The precise language of the bill is, "upon request of the Attorney General after each party has been given notice and the opportunity to be heard." The question posed here is whether "opportunity to be heard" connotes a regular adversary proceeding in court, or some special or different type of hearing. I am not going to labor this point, but I do want the Senate to have the benefit of Mr. Bloch's views on it. At pages 118, 199, and 120 of the printed hearings this appears:

Mr. BLOCH. * * * .

Let us stop right there for the present—"upon application after each party has been given notice."

Now, the only parties to that case would be the United States of America as plaintiffs, and the members of the Board of Registrars of Terrell County, Ga., defendants. They are the only parties. They are given notice "and an opportunity to be heard."

Now, on yesterday I think it was Senator MCCLELLAN who asked either the Attorney General or Judge Walsh what the meaning of that phrase "opportunity to be heard" was.

It so happens that I had made some investigation of that, and I read to you from page 3 of my prepared statement:

"We must suppose that the phrase in the bill, 'opportunity to be heard' contemplates a listening to facts and evidence before adjudication and an opportunity on the part of the defendants to interpose a defense. The phrase 'opportunity to be heard' connotes such (*People* v. *Caralt*, 241 N.Y.S. 641, 644; *Ex parte Morse*, 284 Pac. 18; 141 Okla. 75). The case of *People* v. *Oskroba* (111 N.E. 2d 235, 237; 305 N.Y. 113), however, might indicate that the drafters of this bill did not contemplate that the phrase 'opportunity to be heard' required formal procedure. Another New York case is to the same effect: *People ex rel. Massengale* v. *McMann* (184 N.Y.S. 2d 922)."

So that if you leave the status as it is, with simply the phrase "opportunity to be heard" in it, we do not know what rights the board of registrars, the defendants in that case, would have, because in applying the Federal statute we do not know whether the Federal courts would apply the Oklahoma rule or what seems to be the New York rule. It is all important because what is the question upon which that board of registrars is given the opportunity to be heard? The question is, under the proposed bill, under the bill passed, as passed by the House, the question is whether the court will make a finding that the deprivation was or is pursuant to a pattern or practice.

And that is fundamental in this bill because whether or not the court makes that finding as to the existence vel nom of a pattern or practice determines entirely all the so-called registrations, subsequent registrations, under the act.

So that the first question to be decided there is, as I have said, is whether the registrars would be given a chance to be heard on that question.

Then would come the question of what is the pattern or practice.

Senator MCCLELLAN. May I interrupt at this point. What you are stating—

Mr. BLOCH. Would you mind speaking loud to me. I broke my hearing aid and I am in trouble.

Senator MCCLELLAN. Maybe I should not interrupt. You mean the finding that there was a pattern and practice can be made, that is your contention, under the proposed statute, without the hearing and without the inerested parties having the opportunity to appear?

Mr. BLOCH. I say this. I will go this far, Senator, that under the act it is doubtful, very doubtful, whether the board of registrars, the defendants in the main case, would have a right to cross-examine witnesses, a right to be there, a right to introduce contrary evidence to that put up by the United States of America.

I say that the act would require judicial construction to determine the meaning of the phrase "opportunity to be heard." And I say that in light of the case of the *People* v. *Oskroba* (305 N.Y. 113, 111 N.E. 2d 235); and the *People ex rel Massengale* v. *McMann* (183 N.Y.S. 2d 922).

Now, the Oklahoma Supreme Court has held that the phrase "opportunity to be heard" contemplates that there shall be a full hearing with the right to cross-examine witnesses, represented by counsel, and to introduce evidence to the contrary.

But the New York courts have decided, so far as I read the cases, to the contrary. So that my suggestion in that connection was this: Why leave that, if you are going to pass this, if this bill should be reported out. If this bill should be passed in any form, why leave that phrase "opportunity to be heard" in doubt. Why not spell out what that phrase "opportunity to be heard" means, so that when another case comes up down South some months or some years

hence, we shall not be confronted with the suggestion or argument by counsel for the Government:

"Opportunity to be heard, you can be heard all you please, say what you want, but you have got no right to introduce evidence to the contrary under the decisions of the Supreme Court of New York and the Court of Appeals of New York."

Now, I apprehend that those who drafted this bill, are responsible for the drafting of this bill, are New York lawyers, some of them are certainly, so that they must have had in mind the New York meaning of the phrase "opportunity to be heard" when they inserted it in there.

So my whole point is there, why leave it open, why leave it in doubt? Tell us lawyers who may have to try cases under it just what you mean, particularly in the light of the fact that you are making a finding, that the court will be making a finding there as to whether that deprivation was or is pursuant to a pattern or practice.

Senator JOHNSTON. Will you suggest that they insert that probably at the word "here" and to offer testimony, would that clarify it?

Mr. BLOCH. I would say that the clarification would be a full opportunity to be heard including the right to be represented by counsel, to cross-examine witnesses for the Government, and to introduce testimony contrary to that offered by the Government, and then there would be no doubt about what the phrase "opportunity to be heard" meant.

Senator JOHNSTON. Who could object to anything like that? I think a person has a right to be heard and offer testimony and put up his defenses.

Mr. BLOCH. I do not see that anybody ought to object to it, and I do not know that anybody will. But certainly the bill ought to be clarified in that respect.

I agree with Mr. Bloch. The proposed legislation certainly should be clarified in this respect.

Turning to the second sentence of this title, which reads as follows——

Mr. KEATING. Mr. President, will the Senator repeat that last statement? I was not able to hear it.

The PRESIDING OFFICER (Mr. LONG of Louisiana in the chair). Does the Senator yield for a question or request?

Mr. EASTLAND. I yield only for a question.

Mr. KEATING. I did not hear the last statement of the Senator.

Mr. EASTLAND. The Senator can sit closer to me, and get a good education.

Mr. KEATING. I shall be glad to come closer.

Mr. EASTLAND. Come over closer. It will be worth a year's instruction on constitutional law.

Mr. President, I read the second sentence of the title:

If court finds such pattern or practice, any person of such race or color resident within the affected area shall, for 1 year and thereafter until the court subsequently finds that such pattern or practice has ceased, be entitled, upon his application therefor, to an order declaring him qualified to vote, upon proof that at any election or elections (1) he is qualified under State law to vote, and (2) he has since such finding by the court been (a) deprived of or denied under color of law the opportunity to register to vote or otherwise to qualify to vote, or (b) found not qualified to vote by any person acting under color of law.

This sentence means simply that after the court has found there is a pattern in the area that all applicants who prove that they are qualified to vote under State law or that they have, since the finding by the court of the pattern or practice, been deprived or denied under color of law the opportunity to register to vote or to otherwise qualify or found not qualified to vote by State officials, that the court will order these persons entitled to be registered and to cast their vote. This proceeding would use the court's finding of a pattern or practice as a basis for permitting persons of that same race who were not parties to the original suit to vote without being required to make proof on individual basis that the denial of their right to register was because of their color. This language would eliminate the need for the applicant to allege and prove the discrimination, but would instead, force the registrar to register the voters under the court's order or face the contempt power of the court.

Judge Walsh, under questioning before the House Judiciary Committee, conceded that this provision is indeed the very heart of the bill, for it is here in this provision that Judge Walsh stated very clearly what is intended to be accomplished, when he stated during the House hearings at page 21:

If you found a pattern and practice against Negroes and he is a Negro, I think Congress is justified in jumping the gap and establishing a conclusive presumption that that is the reason for his trouble.

Judge Walsh continued:

I think it is a reasonable presumption. I think if you have had a pattern found, the likelihood of any other reason for refusing to let him register even though he was qualified is nil so I think there is a reasonable basis for such a presumption.

Judge Walsh continued:

Not only is it reasonable but it is necessary, because for an individual to prove each case that he had been a victim of prejudice is very difficult. Therefore, I think he needs Congress' help in that regard.

Mr. HILL. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Will the Senator from Mississippi yield to the Senator from Alabama for a question?

Mr. EASTLAND. I yield provided it does not count as two speeches.

The PRESIDING OFFICER. The Chair will inform the Senator from Mississippi that he may yield for a question without in any wise prejudicing his right to the floor.

Mr. EASTLAND. Mr. President, I ask unanimous consent that I may yield to the Senator from Alabama without losing my right to the floor and without its being counted as two speeches on this matter.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HILL. Mr. President, will the Senator yield to me so that I may suggest the absence of a quorum?

The PRESIDING OFFICER. The Senator from Mississippi has yielded to the Senator from Alabama with the understanding that the Senator from Mississippi will not in any way prejudice his right to the floor. The Senator from Mississippi has yielded under those circumstances. Does the Senator from Alabama desire to suggest the absence of a quorum?

Mr. HILL. Yes, under those conditions.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. EASTLAND. As Judge Walsh ceded during his testimony, Congress is asked to provide that where the court has found a pattern or practice of discrimination against Negroes, it is to be conclusively presumed that this pattern is the only reason for the denial of registration to a qualified Negro, and based on that presumption the Federal courts be authorized to register persons who are never parties to the original action, and forcing registrars to register these applicants without the applicants being required to prove on an individual basis that the denial of their right to register was because of that pattern or practice. By the use of this device State officials will be required to register all applicants in an area without those applicants being required to prove that the only reason they were denied registration is because of their race or color. This difficult element of proof would be eliminated by this statute if it were enacted. As Judge Walsh stated:

Congress would in effect provide that where the court has found a pattern of discrimination against Negroes, it is so obvious that this pattern is the only cause for the denial of registration to a fully qualified Negro that the applicant need not prove this casual link.

I am of the strong opinion that the Congress is without power to create, by legislation, a conclusive presumption which clearly is violative of due process. The essential elements of due process are notice and opportunity to be heard and to defend an orderly proceeding adapted to the nature of the case before a tribunal having jurisdiction of the case.

Wigmore on "Evidence," third edition, volume 9, section 2492, says of conclusive presumptions:

Wherever from one fact another is said to be conclusively presumed, in the sense that the opponent is absolutely precluded from showing by any evidence that the second fact does not exist, the rule is really providing that, where the first fact is shown to exist, the second fact's existence is wholly immaterial for the purpose of the proponent's case, and to provide this is to make a rule of substantive law, and not a rule apportioning the burden of persuading as to certain propositions or varying the duty of coming forward with evidence.

In line with Professor Wigmore's concept of conclusive presumptions, this bill, if enacted, therefore would enact into law a rule of substantive law which would deprive defendants of the opportunity to present evidence in opposition or in any way to be heard or to offer testimony

rebutting this presumption. I submit that Congress has no power to create a conclusive presumption, one incapable of being overcome by proof of the most positive character. This conclusive presumption which the Attorney General would have the Congress enact flies squarely in the face of the holding by the Supreme Court of the United States in *Heiner* v. *Donnan,* 285 U.S. 312, wherein the Court stated:

> If a legislative body is without power to enact as a rule of evidence a statute denying a litigant the right to prove the facts of his case, certainly the power cannot be made to emerge by putting the enactment in the guise of a rule of substantive law.

If the presumption is not unreasonable and is not made conclusive of the rights of the person against whom raised, it does not constitute a denial of due process of law (*Mobile, J. & K.C.R.R.* v. *Turnipseed,* 219 U.S. 35, 43).

In the *Western and Atlantic Railroad* v. *Henderson* (279 U.S. 639, 642), the Court, in distinguishing between rebuttable and irrebuttable presumptions, stated:

> Legislation declaring that proof of one fact or group of facts shall constitute prima facie evidence of an ultimate fact in issue is valid if there is a rational connection between what is proved and what is to be inferred. A prima facie presumption casts upon the person against whom it is applied the duty of going forward with his evidence on the particular point to which the presumption relates. A statute creating a presumption that is arbitrary or that operates to deny a fair opportunity to repel it violates the due process clause of the 14th amendment. Legislative fiat may not take the place of fact in the judicial determination of issues involving life, liberty or property (*Manley* v. *Georgia,* ante, p. 1, and cases cited).

I call attention to the fact that the most vivid demonstration of the constitutional difference between rebuttable and irrebuttable presumptions is the comparison of the two cases that I have just cited—the Turnipseed case and the Western Railroad case. In the Turnipseed case the Court held a "presumption statute" valid because its only legal effect was to cast upon the defendant the duty of producing some evidence to the contrary. However, in the Western Railroad case the Court held a similar statute invalid because it created an inference that was given the effect of evidence to be weighed against opposing testimony and was to prevail unless such testimony was found by the jury to preponderate. How much more would a statute be unconstitutional if it did not afford those affected by it the opportunity to introduce any evidence or to repel the presumption.

A prima facie precumption casts upon the person against whom it is applied the duty of going forward with his evidence on the particular point to which the presumption relates. A statute creating a presumption that is arbitrary or that operates to deny a fair opportunity to repel it violates the due process clause of the 14th amendment—*Bailey* v. *Alabama* (219 U.S. 219, 233).

Legislative fiat may not take the place of fact in the judicial determination of issues involving life, liberty or property—*Manley* v. *Georgia* (279 U.S. 1, 7).

The Attorney General is asking the Congress of the United States to enact a statute creating a conclusive presumption which operates to deny a fair opportunity for defendants to repeal it, and therefore in line with consistent Supreme Court decisions violates the due process clause of the Constitution.

I submit, Mr. President, that there is absolutely no way of justifying what is sought by this language, that is, the creation of a conclusive presumption or substantive rule of law, by the use of which applicants be permitted to vote without requiring those applicants to prove that the denial of their right to register was because of a pattern or practice. It is my firm conviction that what is sought here is violative of due process and beyond the power of the Congress to enact.

Mr. Bloch in testifying before the Senate Judiciary Committee on Tuesday of last week in discussing the conclusive presumption created in this bill took the position that because the conclusion created is irrebuttable, and the defendant is denied the opportunity to present evidence in rebuttal, such a presumption is unconstitutional. I agree entirely with the position reached by Mr. Bloch.

On this point, I wish to read a pertinent portion of Mr. Bloch's testimony before the committee which highlights the unconstitutionality of this provision of the bill.

On page 6, and this is on a presumption which still lurks in the bill, and which I developed pretty thoroughly in my appearance before Senator HENNING's committee, citing the Tennessee case and the Georgia case that went up to the court of appeals, *Western Atlantic Railroad* v. *Henderson, Bailey* v. *The State of Alabama,* and *Manley* v. *The State of Georgia,* all of which were in that printed memorandum, that you have got an unconstitutional presumption lurking in this bill.

The quotations from Judge Walsh's testimony before the House committee tend to demonstrate that.

On the bottom of page 6, Judge Walsh says:

> Ordinarily, when you open up a proceeding like that, and a person wants to take advantage of a judgment which somebody else has obtained, he would have to come in and prove to the referee that he was in exactly the same position as the persons under consideration in the original case; in other words, that he was a qualified voter, that he tried to vote, and that he had been discriminated against because of his race.
>
> The great value of this proposed bill is that it eliminates that last element of proof. Where a judge has just found a pattern or a practice of racial discrimination, it seemed a silly thing to leave it to the master or the referee to fight it out all over again.
>
> Senator ERVIN. But isn't that the crucial thing as to each individual, the question of whether an individual is qualified, being purely a question which can only be determined by an examination of that individual?
>
> Mr. BLOCH. Let me show you how that works, Senator, to show you just how, practically speaking, your question applies.
>
> Suppose there is a Negro who is very well educated, and he is 25 years old, but he has been guilty of a felony, he has killed somebody, and he was sentenced, say, to serve 5 years in the penitentiary.
>
> He goes before a State board of registrars and he seeks to be qualified to vote. He reads the Constitution perfectly, he is perfectly well educated. He is of age. But somebody on the board of registrars happens to know that he has been found guilty of a disenfranchising felony, so he asks some questions:
>
> "John, aren't you the same John Jones who was convicted down here about 7 years ago for murder?"
>
> "Yes, sir; but I served my time."
>
> "Well, we can't register you."
>
> He is turned down now. He goes before the Federal judge, after a pattern of discrimination has been found, and he does not say anything about that conviction of a felony. He proves that he can read and write, he proves that he is 25 years of age, he proves that he has been turned down by the board of registrars of that county, and the judge must necessarily, under this statute, grant him a certificate, because the judge does not know of his other disqualifications, his criminal disqualification.
>
> The Negro does not choose to make it known, and there is nobody contesting the application who might have knowledge of the fact, who has a right to prove it.
>
> Senator ERVIN. That will be all right, Judge, so far as I am personally concerned.
>
> Mr. BLOCH. I think there are just one or two more.

On page 14, if I can count these lines, line 30, Judge Walsh states:

> The proposal of this bill, the essence of this bill, is to take congressional notice that if there is a pattern of discrimination against Negroes, a qualified Negro who is deprived of the right to vote because of that pattern. That is a difficult element to prove for an individual voter, but it is both reasonable as an inference to be drawn by the Congress, and, in view of the almost impossibility of proof in each case, it is a conclusive presumption, so to speak, which it is recommended that the Congress here enact into statute.

On page 15, the paragraph toward the top of the page, Mr. Walsh commences:

> As I would visualize the proceeding, it would be ex parte, but it would lead to an adjudication; the referee spares the judge the job of testing as to whether a man can read and write, how old he is, and where he lives. The referee gets that.
>
> The CHAIRMAN. Would you say that is adjudicative, judicial?
>
> Mr. WALSH. It is not adjudicated until the judge has ratified it. It is a step in an adjudicative process.
>
> The CHAIRMAN. It is a step in the judicial process, as an aid to the court.
>
> Mr. WALSH. Yes. But before the court acts finally, the referee's tentative findings and recommendations are given to the State registrar and all of the other parties in the underlying proceeding, so that they may challenge them, if they see fit.
>
> Then, if they challenge them—supposing the Negro applicant says, "I live on the corner of Third Street and First Avenue in this congressional district," and the State registrar has information that he does not live there, that he really lives in another county altogether, in a different congressional district. I would assume that the judge in these circumstances, as a matter of consistent practice, will require that the referee's report be served on the State registrar or the other State defendant in this action; and that then, if that State registrar files exceptions to that portion of the report and indicates that there is a substantial issue of fact as to where this man lives,

there will be a hearing, the same as there would be in any kind of a court proceeding.

Mr. HOLTZMAN. And the court would finally determine that.

Mr. WALSH. That is right. I suppose the court could refer that back to the referee himself, or he could determine it himself.

The CHAIRMAN—

Mr. President, that is the chairman of the House Judiciary Committee, Mr. CELLER, not the chairman of the Senate Judiciary Committee.

Let us assume a pattern of practice where a group is involved. Does that mean the voting referee would have to make a determination based on the deprivation or the discrimination in each individual case in that group?

Mr. WALSH. No, sir. The voting referee would not make that determination. That is the whole purpose of this statute, to avoid the need for that determination in each individual case. Once the judge has found the existence of a pattern or a practice of discrimination which involves a State official who has something to do with the voting process, then all the applicant has to show is that (1) he is qualified to use the voting process and (2) that that State official is not letting him do it.

On page 15, in the paragraph toward the bottom of the page, Mr. Walsh states:

Congress, if this bill prevails and passes, will have made a legislative finding that the probability is so high that that is the only reason for not letting Negroes register, there it may be assumed a conclusive presumption or statutory rule, and therefore need not be found in each individual case.

Then on page 17, toward the middle of the page, Chairman CELLER asked this question:

What I was concerned about in the case of the Federal registrar's making a determination that an individual was qualified to vote and was refused registration is that if it is a justifiable question or a disputed question, there would have to be a confrontation of witnesses and cross-examination, and so forth; would there not?

Mr. WALSH. You would have to have due process, and it is harder to generalize about it.

I think the question that concerns you at the moment is this idea of letting a Federal officer be appointed without such a preliminary judicial finding that there is a pattern of discrimination.

Mr. LONG of Louisiana. Mr. President, will the Senator yield for a question?

Mr. EASTLAND. I yield for a question.

Mr. LONG of Louisiana. Does the Senator from Mississippi recall that many of our liberal friends fought very strenuously in days gone by to protect the right of due process for persons accused of subversive activities?

Mr. EASTLAND. Yes; I do recall.

Mr. LONG of Louisiana. Did not many of our distinguished liberal friends also fight vigorously to protect the right of due process on behalf of those who were found to be subversives and engaged in Communist activities?

Mr. EASTLAND. The Senator is exactly correct.

Mr. LONG of Louisiana. If a Communist or a labor leader—and I do not put the two in the same category at all——

Mr. EASTLAND. Of course not.

Mr. LONG of Louisiana. If a Communist or a labor leader, or a member of some other group—almost any other group under the sun—is entitled to the benefit of due process—felons, Communists, traitors—can the Senator from Mississippi tell me why an honorable elective or appointive public official, holding an office of trust, should not be entitled to due process to redeem his honor?

Mr. EASTLAND. Of course he should be. A thug, a thief, an embezzler, a murderer, or a Communist is entitled to due process; but an upstanding white citizen of the South is not under this title.

Mr. LONG of Louisiana. Can the Senator from Mississippi give any logical reason why a person who is respected by his fellow citizens and holds an office of trust should not be accorded the same privileges which some Members of Congress would use to defend and protect Communists?

Mr. EASTLAND. I know of no reason except pressure to capture the Negro vote in urban areas. That is the only reason I know of. Of course, that is not a valid reason, but we must face it.

The distinguished junior Senator from Louisiana has made a strong point in saying that a Communist or a traitor is entitled to due process, and that such protection has been supported by our liberal friends in the Senate. But a lawyer who is a white southerner is not entitled to the same rights; and the liberals in the Senate attempt to deny those rights.

Mr. LONG of Louisiana. Did not some of our liberal friends, in trying to protect the right of due process for Communists, keep the Senate in session all night long, around the clock, for a considerable period of time when the subversive control bill passed the Senate some years ago?

Mr. EASTLAND. The Senator is exactly correct.

Mr. LONG of Louisiana. Did they not exert every effort to assure due process in order to protect those who were found by the FBI and other investigative agencies to be traitors to the country?

Mr. EASTLAND. Of course; but the liberal groups and the pressure groups were all lined up to make certain that due process was accorded Communists. Now they do not want to extend the same rights to the white people in the South.

Mr. LONG of Louisiana. After the Subversive Control Act was passed, did not the Supreme Court rule that the Communist organizations had to be accorded every privilege of due process, including confrontation of their accusers, even though the FBI thought it was damaging to the interests of the United States?

Mr. EASTLAND. That is exactly correct.

Mr. President, without prejudicing my right to the floor, I should like to ask the Senator from Louisiana a question.

The PRESIDING OFFICER (Mr. HILL in the chair). Without objection, it is so ordered.

Mr. EASTLAND. Does the distinguished Senator from Louisiana believe that the present Supreme Court would extend that same right to the very fine white people of the South?

Mr. LONG of Louisiana. One would think, I might suggest to the Senator, that it would be unconstitutional to try to deny a person the right of due process. Does not the Senator recall that in the Greene case, a case which I think involved Communists, the Court itself held that Congress had no power to deny traitors the right of due process?

Mr. EASTLAND. The Senator is correct.

Mr. LONG of Louisiana. Can the Senator from Mississippi inform me how the Supreme Court can possibly arrive at the conclusion that Communists are entitled to the protection of due process, but that honorable persons, elected and respected by their friends and associates, and by the public in general, are not entitled to the same privileges?

Mr. EASTLAND. They are entitled to the same privileges; but the distinguished Senator asked me how the Court could rule as it did. I do not see how the Court could make that decision or such a decision as in Brown against Board of Education case and base it on psychology and Communist teachings. They left out an explanation of how psychology would affect a white student in school. Has he no rights? A white man is deemed to have no rights. This proposal is an attempt to deprive the white man of his basic rights under the Constitution. Is there any question in the Senator's mind about that?

I believe in giving the Negroes constitutional rights; but we should certainly place the races on a parity and not have privileged classes of people under the law. That is what the Supreme Court has done.

Mr. LONG of Louisiana. I thank the Senator from Mississippi.

Mr. EASTLAND. Mr. President, I resume my quotation from the hearings:

I think the question that concerns you at the moment is this idea of letting a Federal officer be appointed without such a preliminary judicial finding that there is a pattern of discrimination. In other words, a pattern to permit a Federal officer to supplant a State officer merely upon the view of the committee proceeding along the lines of a congressional committee, in which there has been no cross-examination or confrontation extended to the State officer.

Chairman CELLER. You mean that Congress can justify that presumption?

Mr. WALSH. Yes, sir. I think it is a reasonable presumption. I think if you have had a pattern found, the likelihood of any other reason for refusing to let him register even though he was qualified is nil. So I think there is a reasonable basis for such a presumption.

Not only is it reasonable, but it is necessary, because for an individual to prove each case that he had been a victim of prejudice is very difficult. Therefore, I think he needs Congress' help in that regard.

Mr. WILLIS. Would the chairman yield?

The CHAIRMAN. Is there any precedent where Congress has created such a presumption?

Mr. WALSH. The first thing that occurs to me is in the antitrust cases, where the presumption is not conclusive, but presumptive. Where there has been a Government antitrust case, a private plaintiff who claims to

have been the victim of the same pattern of restraint of trade which the Government has proved may cover his burden of proof by relying on that proved in the Government case.

This is not a conclusive presumption; that would establish a prima facie case.

Then, lastly, on page 29, Representative WILLIS, speaking, says:

Then you say, "This difficult element of proof is the one which the statute would eliminate. Congress would in effect provide that where the court has found a pattern of discrimination against Negroes, it is so obvious that this pattern is the only cause for the denial of registration to a fully qualified Negro applicant that the applicant need not prove this casual link."

Mr. WALSH. That is the heart of the bill.

The fallacy in that presumption is demonstrated by the fact that there ought not to be any such thing in law as conclusive presumptions, and that is demonstrated in the hypothetical case that I stated a while ago, and that Negro, indicted and tried for murder or whatnot, has served his sentence, or guilty of any other crime which disenfranchises under State law, applies to a State board of registrars, county board of registrars, to be permitted to vote, and they turn him down because he is not qualified to vote because of the Georgia statute which prohibits criminals convicted of felonies from voting, or any other State.

That was the reason for it—that he was denied the right to vote; in the language of the bill, he has been denied under color of law the opportunity to register to vote or otherwise qualify to vote.

He proves that; he proves his age; he proves his mental qualifications, and you have got a presumption then, conclusive presumption, that the reason that that board of registrars did not let him vote was because he was a Negro. It is a conclusive presumption, whereas the real reason they did not let him vote was because he was not qualified under the laws of Georgia to vote.

That shows you what presumptions do for you.

Senator ERVIN. I know you pointed out in the hearing before the House very effectively that a conclusive presumption or any presumption which denied an adversary party a fair opportunity to contradict it or disprove it, violates, when created by statute, the due process clause.

Mr. BLOCH. It violates the due process of law, and even if it should be a rebuttable presumption, the person against whom the presumption exists is given no opportunity under this bill to rebut it at any stage of the proceeding, either before the judge or the referee.

It is indeed incomprehensible to me that the Attorney General urges legislation, allegedly based upon the 15th amendment, which empowers a Federal court to decree that State officials are guilty of depriving an individual of his 15th amendment rights, and then, by reason of that decree, to compel State officials to permit other persons, not parties to the original suit, to vote at its elections.

I find no constitutional basis for Congress to convert Federal courts into registration boards and supplant State officials.

Uniformly appraised as a legislative arrogation of judicial power, whereby courts are rendered unable to conduct an investigation of evidence preliminary to a determination of the facts to which relevant principles of law are to be applied, conclusive statutory presumptions consistently have been held to deprive defendants of due process of law, by denying them a fair opportunity to present facts pertinent to their defense.

Nowhere in the record of hearings, either before the House committee or the Senate committee has there been presented by the administration any constitutional basis to justify the enactment of a conclusive presumption measure. During the House committee hearings, Judge Walsh was asked on what grounds a conclusive presumption could be justified. Judge Walsh replied that in his opinion it was reasonable and necessary that Congress provide such a statutory conclusive presumption, not on the basis of its constitutional validity, but solely because it was necessary.

It seems to me, Mr. President, that the Attorney General would have the Congress turn its back on the well-established principles that conclusive statutory presumptions deny due process of law and are unconstitutional. It would appear that in its zeal to enact civil rights legislation, the Congress is asked to disregard constitutional limitations.

I, for one, am not willing to go that route, and will oppose with all my strength any proposed legislation which is violative of due process of law. In the guise of political expediency we are asked to change defendant's rights which heretofore have been consistently preserved.

It would seem to be so self-evident that this proposal contravenes all rules of civil procedure that it would be unnecessary to cite existing law. It appears, however, that that is not the case.

Mr. President, all of the powers, functions, and duties of either the court or an appointed referee, after the pattern or practice has been found, as set forth in title VI of H.R. 8601, are clearly nonjudicial functions. They are ministerial and administrative. The court or referee is simply turned into a registration board, and it is the admitted purpose of the proponents of this legislation to make it possible for applicants to be registered with the same degree of ease that they could be registered before the appropriate State election officials.

All a Negro applicant has to do, when he has a conclusive presumption in his pocket, is to apply to the court or a designated referee and allege, first, he is qualified under State law to vote; and second, he has, since such finding by the court, been (a) deprived or denied under color of law the opportunity to register to vote or (b) been found not qualified to vote by any person acting under color of law.

Regardless of whether the application is made to the court or to a referee, the ensuing hearing involves only the applicant. Insofar as the referee is concerned, he must take the applicant's own word, under oath, as prima facie evidence of age, residence, and his prior efforts to register or otherwise qualify to vote. Regardless of whether the term "ex parte" is used, the hearing is one-sided; there is no contest or controversy; there is no defendant; no one is allowed to challenge or controvert the witness. The individual who has caused the damage to the applicant, redress of which is the right he now asserts, is barred from participating in the proceeding.

This judicial travesty that would be created by title VI is outside the scope of power conferred upon the Federal courts under article III of the U.S. Constitution. Article III, section 1, of the Constitution provides that:

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish.

After the courts are established, it is then provided, in section 2 of this article, that:

The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority.

And, in a later clause of this section "to controversies to which the United States shall be a party."

The case of *Muskrat* v. *United States* (219 U.S. 346) clearly delineated the extent of the judicial power inherent in U.S. courts. Mr. Justice Day, who delivered the opinion, stated, in part:

It therefore becomes necessary to inquire what is meant by the judicial power thus conferred by the Constitution upon this court, and with the aid of appropriate legislation upon the inferior courts of the United States. "Judicial power," says Mr. Justice Miller in his work on the Constitution, "is the power of a court to decide and pronounce a judgment and carry it into effect between persons and parties who bring a case before it for decision" (Miller on the Constitution, 314).

As we have already seen by the express terms of the Constitution, the exercise of the judicial power is limited to "cases" and "controversies." Beyond this it does not extend, and unless it is asserted in a case or controversy within the meaning of the Constitution, the power to exercise it is nowhere conferred.

What, then, does the Constitution mean in conferring this judicial power with the right to determine "cases" and "controversies"? A "case" was defined by Mr. Chief Justice Marshall as early as the leading case of *Marbury* v. *Madison* (1 Cranch 137) to be a suit instituted according to the regular course of judicial procedure. And what more, if anything, is meant in the use of the term "controversy"? That question was dealt with by Mr. Justice Field, at the circuit, in the case of *In re Pacific Railway Commission* (32 Fed. Rep. 241, 255). Of these terms that learned justice said:

"The judicial article of the Constitution mentions cases and controversies. The term 'controversies,' if distinguishable at all from 'cases,' is so in that it is less comprehensive than the latter, and includes only suits of a civil nature. *Chisholm* v. *Georgia* (2 Dall. 431, 432; 1 Tuck. Bl. Comm. App. 420, 421). By cases and controversies are intended the claims of litigants brought before the courts for determination by such regular proceedings as are established by law or custom for the protection or enforcement of rights, or the prevention, redress, or punishment of wrongs. Whenever the claim of a party under the Constitution, laws, or treaties of the United States takes such a form that the judicial power is capable of acting upon it, then it has become a case. The term implies the existence of present or possible adverse parties whose contentions are submitted to the court for adjudication."

As this opinion so clearly points out, cases and controversies, which are the extent of the judicial power, must involve persons, parties, litigants—always those who have adverse interests. Then, too, if the party or parties who were responsible for the wrong charged were not given their contemporaneous day in court, Congress would also be violating the fifth amendment in enacting this proposed legislation—depriving the adverse party of due process of law.

Edward S. Corwin, who was selected by Congress to edit the 1952 edition of the Constitution of the United States, Analysis and Interpretation, has this to say on the subject of cases and controversies:

The meaning attached to the terms "cases" and "controversies" determines therefore the extent of the judicial power, as well as the capacity of the Federal courts to receive jurisdiction. As Chief Justice Marshall declared in *Osborn* v. *Bank of the United States*, judicial power is capable of acting only when the subject is submitted in a case, and a cases arises only when a party asserts his rights "in a form prescribed by law." Many years later Justice Field, relying upon *Chisholm* v. *Georgia*, and Tucker's edition of Blackstone, amended this definition by holding that "controversies," to the extent that they differ from "cases," include only suits of a civil nature. He continued: "By cases and controversies are intended the claims of litigants brought before the courts for determination by such regular proceedings as are established by law or custom for the protection or enforcement of rights, or the prevention, redress, or punishment of wrongs. Whenever the claim of a party under the Constitution, laws, or treaties of the United States takes such a form that the judicial power is capable of acting upon it, then it has become a case. The term implies the existence of present or possible adverse parties whose contentions are submitted to the Court for adjudication." The definitions propounded by Chief Justice Marshall and Justice Field were quoted with approval in *Muskrat* v. *United States*, where the Court held that the exercise of judicial power is limited to cases and controversies and emphasized "adverse litigants," "adverse interests," and "actual controversy," and conclusiveness or finality of judgment as essential elements of a case.

Again, at a later point Corwin says:

Because judicial review is an outgrowth of the fiction that courts only declare what the law is in specific cases, and are without will or discretion, its exercise is surrounded by the inherent limitations of the judicial process and notably the necessity of a case or controversy between adverse litigants with a standing in court to present the issue of unconstitutionality in which they are directly interested. The requisites to a case or controversy have been treated more extensively above, but it may be noted that the Supreme Court has repeatedly emphasized the necessity of "an honest and actual antagonistic assertion of rights by one individual against another," and its lack of power to supervise legislative functions in friendly proceedings, moot cases, or cases which present abstract issues.

Even the case of *Ex parte Siebold* (100 U.S. 397), sustains the principle set forth in the Muskrat case. Under the old Davenport Act, providing for supervision of elections, Congress vested in the courts the duty to name these supervisors. At page 397 of the opinion the Court says:

Finally, it is objected that the act of Congress imposes upon the circuit court duties not judicial, in requiring them to appoint the supervisors of election, whose duties, it is alleged, are entirely executive in their character. It is contended that no power can be conferred upon the courts of the United States to appoint officers whose duties are not connected with the judicial department of the Government.

Note carefully that the duties to be performed by the election supervisors were duties that were "not connected with the judicial department of the Government." They were not only not connected, but after the Court named a supervisor of election, the Court had no further control or supervision over the appointee. He carried out the duties provided for under the later repealed Federal election law. The Siebold opinion states further:

The Constitution declares that "the Congress may, by law, vest the appointment of such inferior officers as they think proper, in the President alone, in the courts of law, or in the heads of departments." It is no doubt usual and proper to vest the appointment of inferior officers in that department of the Government, executive or judicial, or in that particular executive department to which the duties of such officers appertain. But there is no absolute requirement to this effect in the Constitution; and, if there were, it would be difficult in many cases to determine to which department an office properly belonged. Take that of marshal, for instance. He is an executive officer, whose appointment, in ordinary cases, is left to the President and Senate. But if Congress should, as it might, vest the appointment elsewhere, it would be questionable whether it should be in the President alone, in the Department of Justice, or in the courts. The marshal is preeminently the officer of the courts; and, in case of a vacancy, Congress has in fact passed a law bestowing the temporary appointment of the marshal upon the justice of the circuit in which the district where the vacancy occurs is situated.

But as the Constitution stands, the selection of the appointing power, as between the functionaries named, is a matter resting in the discretion of Congress. And, looking at the subject in a practical light, it is perhaps better that it should rest there, than that the country should be harassed by the endless controversies to which a more specific direction on this subject might have given rise. The observation in the case of Hennen, to which reference is made (13 Pet. 258), that the appointing power in the clause referred to "was no doubt intended to be exercised by the department of the Government to which the official to be appointed most appropriately belonged," was not intended to define the constitutional power of Congress in this regard, but rather to express the law or rule by which it should be governed. The cases in which the courts have declined to exercise certain duties imposed by Congress, stand upon a different consideration from that which applies in the present case. The law of 1792, which required the circuit courts to examine claims to revolutionary pensions, and the law of 1849, authorizing the district judge of Florida to examine and adjudicate upon claims for injuries suffered by the inhabitants of Florida from the American army in 1812, were rightfully held to impose upon the courts powers not judicial, and were, therefore, void. But the duty to appoint inferior officers, when required thereto by law, is a constitutional duty of the courts; and in the present case there is no such incongruity in the duty required as to excuse the courts from its performance, or to render their acts void. It cannot be affirmed that the appointment of the officers in question could, with any greater propriety, and certainly not with equal regard to convenience, have been assigned to any other depositary of official power capable of exercising it. Neither the President, nor any head of department, could have been equally competent to the task.

What could be more analogous to the voting qualification procedure than the unconstitutional function Congress attempted to confer on the Federal courts in adjudicating the Florida claims. The parallel is exact and deadly. It is ironic that this Siebold case, which did sustain in part the powers of Congress to exercise some supervisory control over voting for national officers, now rises to deny the proponents of the presently devised vote control plan the very constitutional basis for their scheme.

Now, let me read from a case decided by the Supreme Court in 1930, *Federal Radio Commission* v. *General Electric Co.* (281 U.S. 464). A review was sought of a decision of the Court of Appeals of the District of Columbia given on appeal from an order of the Radio Commission. The Court held that Congress could properly vest in the courts of the District of Columbia legislative and advisory powers. Justice Van Devanter said, in part:

It is recognized that the courts of the District of Columbia are not created under the judiciary article of the Constitution but are legislative courts, and therefore that Congress may invest them with jurisdiction of appeals and proceedings such as have been just described.

But this Court cannot be invested with jurisdiction of that character, whether for purposes of review or otherwise. It was brought into being by the judiciary article of the Constitution, is invested with judicial power only and can have no jurisdiction other than of cases and controversies falling within the classes enumerated in that article. It cannot give decisions which are merely advisory; nor can it exercise or participate in the exercise of functions which are essentially legislative or administrative.

The same limitation that the Supreme Court here places on itself is also applicable to all U.S. district courts outside of the District of Columbia. Courts cannot perform functions which are essentially legislative or administrative. Qualifying applicants under the voting referee plan is nothing more nor less than an essentially administrative function, whether performed by the judge or the referee.

Mr. President, these decisions I have cited are but a few, but cases are legion to prove and demonstrate that the powers, functions, and duties proposed by title VI to be bestowed on Federal district courts are beyond the powers bestowed upon the judicial branch of our Government under article III of the Constitution. At a later time I shall review some or possibly all of the additional cases.

Mr. President, I am going to speak during this debate several other times. I want the RECORD to show repeatedly

that I am opposed to the bill in any form, and that I am going to do everything within my power to prevent its passage.

I yield the floor.

ADDRESS BY SENATOR MORTON AT DES MOINES, IOWA

During the delivery of Mr. EASTLAND'S remarks,

Mr. HICKENLOOPER. Mr. President, will the Senator yield to me for an insertion in the RECORD?

Mr. EASTLAND. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Iowa, with the understanding that it will not prejudice my rights to the floor.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Mississippi?

Mr. FREAR. Mr. President, reserving the right to object—and I shall not object—I wonder if the Senator from Mississippi will give us any idea as to the length of the short speech which he has in front of him.

Mr. EASTLAND. I make no promises.

Mr. FREAR. Mr. President, I do not object.

Mr. HICKENLOOPER. Mr. President, I am happy to join in that request. That was the condition under which I made the request for the Senator to yield. I also ask unanimous consent that my remarks be printed in the RECORD after the conclusion of the Senator's speech.

The PRESIDING OFFICER. Is there objection to the requests of the Senator from Mississippi and of the Senator from Iowa? The Chair hears none, and it is so ordered.

Mr. HICKENLOOPER. Mr. President, on the 31st of March of this year the Senator from Kentucky [Mr. MORTON], who is the chairman of the Republican National Committee, addressed the annual Iowa Republican finance dinner in Des Moines, Iowa, at which he gave an address largely devoted to the subject of agriculture.

Mr. EASTLAND. Mr. President, will the Senator yield for a question?

Mr. HICKENLOOPER. I yield.

Mr. EASTLAND. What did the Senator say about agriculture which would interest the farmer?

Mr. HICKENLOOPER. Among other things, the Senator from Kentucky said, Mr. President, that it is high time we stopped tinkering with the problems of agriculture on a political basis and started to solve them on an economic basis.

Mr. EASTLAND. What did the Senator advocate for corn? What did the Senator promise? Did he promise more for corn?

Mr. HICKENLOOPER. I suggest that the Senator read the address.

Mr. EASTLAND. Did he promise to increase the price of hogs?

Mr. HICKENLOOPER. No. The Senator from Kentucky did not confine himself to such details.

Mr. President, I ask unanimous consent——

Mr. EASTLAND. How does he propose to help the farmers? I think he is dealing in some political medicine. That is what the Senator from Mississippi thinks. The Senator made a speech in which he said he wanted to help the farmers, but he did not promise to do anything for the farmers.

Mr. HICKENLOOPER. I will say in general the speech advocates doing something for the farmers, rather than the general Democratic program of doing something to the farmers.

Mr. EASTLAND. What would he do for the farmers? I expect he will do something to them.

Mr. HICKENLOOPER. I suggest that the Senator read the address which I am offering for the RECORD. Mr. President, I ask unanimous consent that this very excellent address by the Senator from Kentucky be printed as a part of my remarks at this point.

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

EXCERPTS FROM REMARKS BY SENATOR THRUSTON B. MORTON, REPUBLICAN, OF KENTUCKY, CHAIRMAN OF THE REPUBLICAN NATIONAL COMMITTEE, IOWA REPUBLICAN FINANCE DINNER, VETERANS' AUDITORIUM, DES MOINES, IOWA, MARCH 30, 1960

It is a great pleasure to visit Iowa again and to have the opportunity of meeting with so many active Republican workers.

In the year that I have served as chairman of the Republican National Committee, it has been my privilege to participate in meetings such as this in more than 40 States. I can report to you that our party is on the march everywhere but the greatest resurgence of Republican strength I have encountered is right here in Iowa and its neighbor States.

As all of you know, the Republican Party has suffered serious losses in the Midwest in recent elections—in Senate and House seats, in governorships, and in other important political offices. I strongly believe this trend will be sharply reversed in 1960. Republicans will recapture many of the elective positions which went to Democrats in 1954, 1956, and 1958.

It seems to me that Iowa's special election of last fall in the Fourth Congressional District clearly points to such a probability. This was a crucial contest—one of genuine national significance. The election of JOHN KYL to Congress represented a smashing Republican Party victory.

I know firsthand of the organizational work and the tremendous campaign effort which the candidate and hundreds of active Republican Party workers put into this winning drive. I know that with equal determination and dedication, this great Republican victory can be duplicated in many election contests next November. Here in Iowa, for example, it seems to me that it is possible to win all of the three House seats now held by Democrats. I believe that our chances of unseating Democratic Congressmen are as bright in other Midwestern States.

It seems to me that the Republican resurgence is attributable to several factors. First, and most importantly, this Republican administration has maintained the peace and a great majority of the American people believe that the best hope of achieving a permanent easing of world tensions lies in the election of another Republican administration. Second, there is the indisputable fact that most segments of the economy are expanding to unprecedented heights, with more people at work, earning more, investing more, building more and buying more than at any time in our history. A third powerful factor in the improved outlook for Republican success is the increased organizational activity within the party itself. This is evident everywhere. More people are now willing to work actively for the party and its candidates.

Currently I sense the emergence of a fourth positive factor, one which could be vitally important here in the Midwest. I believe that many traditionally Republican farm people, who had become discouraged over their failure to share fully in the Nation's record prosperity, now see that the Democrats have been seeking only to exploit and not to solve the problems of agriculture.

Since the 1954 elections, the Democratic Party has controlled Congress—and it is Congress alone which can write farm legislation. Since the 1958 elections, the Democrats have held both branches of Congress by a virtual 2-to-1 majority. Nevertheless, through all of these years the Democratic majority has dodged its responsibility to face up to the farm problem. Instead, its individual members have sought to fasten responsibility for all of agriculture's ills upon the executive branch of the Government. And this they have done with the full knowledge that the President and the Department of Agriculture can do only those things which the laws passed by Congress permit or direct.

At this point, may I digress for a moment? A couple of Sundays ago I watched with keen interest a combination documentary-television news show on the farm problem. Some of you may have seen it. It touched on the increasing costs of moving food from the farms to the dining tables of consumers. But it pinpointed the heart of the problem in this way: prices received by farmers have failed to keep pace with the costs of the goods and services they must buy. The familiar "cost-price" squeeze we have heard so much about in recent years.

I might add, however, that the film and the comment on this show were not about agriculture in the United States. This was a presentation of the problems of the farmers of France. And, although the major problems of French farmers were startlingly similar to those of farmers in our own country, somehow it was not even suggested that the Republican Party was responsible for the situation.

Canada, our good neighbor to the north is beset by farm problems not unlike our own—mounting surpluses, the "cost-price" squeeze and the constant battle to hold and expand export markets.

I strongly suspect that if an Iowa farmer were to sit down and discuss the world agricultural situation with farmers from France, Canada, Australia, Argentina and most of the other free nations, it would soon become apparent that all of them have many common problems. I have purposely excluded farmers from Russia, China, and the satellite countries from this hypothetical roundtable meeting because their problems are different and they wouldn't dare to talk about them anyway.

What all of this suggests to me is that the farm dilemma is much bigger and broader and far more complicated than the people with the quick and easy solutions are willing to admit. It is in no small part an economic problem but it represents a social problem as well. Farmers are people and farming is more than just a business.

Agriculture, as every Iowa farmer knows, has been going through a tremendous technological revolution, particularly in the last two decades. The end is not in sight and who can say with certainty that this great flood of new farm know-how will not one day in retrospect appear as a mere trickle?

The improvement in farm income and living standards which farm people want and rightly deserve will be found not on the road which leads backward but rather along the one which lies ahead. The outmoded programs designed to serve agriculture in time of war cannot be made to fit the needs

of farmers today. Political gimmicks won't solve basic economic problems, either.

And the Brannan plan—dusted off and repackaged by the Democrats, and now being put forward as their farm program—this discredited blueprint for the regimentation of all agriculture represents the worst of all possible approaches to the problems of agriculture. It would make virtual serfs of farmers. While farmers clearly would suffer most under its oppressive provisions, there is room for debate as to whether labor, business, or consumers would be the next hardest hit. One thing is certain, it would adversely affect every American citizen.

The resurrected Brannan plan now bears the innocent-sounding title: "Family Farm Income Act of 1960." It has been introduced in bill form, with some slight variations, by nearly a score of Democrats, including three Democratic Congressmen from Iowa. Governor Loveless and several other Democratic Governors have spoken out in support of this approach to the farm problem. The leading candidates for the Democratic presidential nomination have also been flirting with the idea. It represents, as nearly as anything can prior to convention time, the farm program of the Democratic Party. It is interesting to note that after 12 years the Democrats are back where they started, back to the Brannan plan.

For the last 7 years the Democrats have had no farm program which could be definitely tied to them as a party. They were content, without offering real alternatives, just to attack the Republican administration and the farm laws on the books—even though the present price-support programs are based essentially upon measures passed by Democratic Congresses.

For the first time since the Democrats went to the Farm Belt with the Brannan plan and were repulsed in the elections of 1950, there is now the opportunity for a meaningful, full-dress debate of the entire farm problem. Farmers will be presented a clear-cut choice between the all-out regimentation of the revived Brannan plan and the premise that farm income can be bolstered without putting farmers in chains. Obviously I cannot present you with a preview of the party's 1960 farm plank because it has not been written. I cannot anticipate the thoughts and ideas our presidential nominee will have, but I know that much work is being done by factfinders in the farm field. I can assure you that we Republicans won't be running on the Brannan plan. We will stand forthrightly for the farmer, for his security, and for his freedom.

President Eisenhower, on February 9 of this year, once again called the attention of Congress to the serious problems confronting agriculture and urged early corrective action. In that special farm message he said:

"I have repeatedly expressed my preference for programs that will ultimately free the farmer rather than subject him to increasing governmental restraints. I am convinced that most farmers hold the same view. But whatever the legislative approach, whether toward greater freedom or more regimentation, it must be sensible and economically sound and not a political poultice. And it must be enacted promptly. I will approve any constructive solution that Congress wishes to develop."

The President then went on to lay down broad guidelines for congressional action. He said that within those guidelines he was constantly ready to approve any one or a combination of constructive proposals.

I sincerely hope, as I am sure most farmers do, that the Democratic Congress will come forward with constructive farm legislation which would meet the standards outlined by the President. This would represent a long step toward the solution of agriculture's more pressing problems. If the Democratic Congress fails to act constructively, certainly the Republican Party must go to the people on this vital farm policy issue.

There are so many things wrong with the Brannan-type bills now pending in Congress that I shall not attempt to list them in detail here this evening. A few will suffice.

Under the provisions of this proposed legislation, the four-fifths of agriculture which is now entirely free of Government controls could be brought under Federal regimentation. The program offered to hog producers would force an estimated production cut of 30 percent. Cattle producers could be similarly regulated, with cattle prices fixed by grades. (Remember when we had the Government in the business of fixing cattle prices?) Egg production would be cut an estimated 30 to 40 percent under the proposed program. Wheatgrowers would be confronted with a forced allotment reduction from 55 million acres to less than 25 million—a cut of more than one-half.

Although the proposed measure is designated as the "Family Farm Income Act of 1960," nowhere in the language of the bill is any income goal spelled out. The many Democratic sponsors of this proposal are seeking to imply that family farm incomes would rise if it were adopted. It seems clear to me that the reverse would occur. The harsh cutbacks in total farm production would more than offset the increased prices which are promised.

Moreover, large numbers of farmers specializing in one type of operation would find themselves reaping the consequences of programs adopted by other producer groups. For example, many corn-hog-cattle operators here in the Midwest utilize on their own farms all of the feed they produce. Because they don't market the required $500 worth of feed grains a year, they would be ineligible to vote in referendums which could impose heavy cutbacks on their own production of such grains. This is nothing less than confiscation without representation.

There are other far-reaching implications of the Brannan-plan approach which its Democratic sponsors have not thought through. Obviously, it would take fewer packinghouse workers to slaughter and process fewer cattle and hogs. It would require fewer employees in the farm-equipment plants to turn out machinery for an agriculture geared to scarcity rather than abundance. Fewer transportation workers would move a sharply reduced volume of farm products to market. It would require fewer retail and service businesses, with smaller numbers of employees, to provide the goods and services which a strait-jacketed agriculture would need—less farm machinery, less petroleum products, less feeds and seeds, less lumber, less fencing, etc.

Consider for a moment what this would mean in terms of jobs and income here in Iowa and across the Nation. Think what it would mean to your city or town and to you personally. Those labor leaders who are lending their support to the pending Democratic farm legislation would do well to take a long, hard look at what this program would do to their membership, both in terms of jobs and living costs. As a matter of cold economics, it would be impossible to reduce total farm output by 20 or 30 percent, without reducing employment in allied agricultural industries and businesses by nearly as large an amount. And any labor leader who believes food becomes cheaper as it becomes less plentiful can get himself straightened out by having a little talk with his wife.

In summary, here is an alleged "family farm income" program which would cut farm income, drastically reduce jobs both on and off the farm and sharply increase food prices and other living costs to consumers. The only offsetting job effects I can conceive are these: a vastly augmented army of bureaucrats would be required to police and enforce the compliance features of the program; more adding machines, file cabinets and double-entry ledgers would be needed by farmers to keep the intricate records Federal inspectors would demand.

The Nation's farmers would never knowingly trade their birthright for this mess of pottage. The danger is that this monstrous farm program could be foisted upon them by fast-talking politicians under the guise of a "family farm income" plan, which it clearly is not.

It seems to me that one of the greatest services Republicans can perform in every farm State of the Nation is to acquaint farmers, and the millions of others who would be directly affected, with the grave threat which confronts them in the form of the retitled Brannan plan.

If this is done effectively, I shall have no doubts as to how a great majority of farm people will vote in the elections of 1960.

Mr. EASTLAND. Mr. President, will the Senator yield for another question?

Mr. HICKENLOOPER. I yield.

Mr. EASTLAND. How much money did the Republicans raise?

Mr. HICKENLOOPER. We fed over 3,000 people at $25 each. I do not know what the expenses were, but they were a small portion of the $25 each. It was the biggest political crowd of that kind which ever sat in the State of Iowa at a similar meeting, either Democratic or Republican.

I will say to the Senator that I am very, very happy about the success of the meeting, and I was stimulated by the speech of the Senator from Kentucky.

I suggest that there is some pretty good philosophy in the speech of the Senator from Kentucky. The Senator from Mississippi, with whom I have sat on the Committee on Agriculture and Forestry for many years, has, in the main——

Mr. EASTLAND. That is wrong.

Mr. HICKENLOOPER. The Senator has, in the main, been quite sound on his approach to the problem of agriculture.

Mr. EASTLAND. I thank the Senator.

Mr. HICKENLOOPER. I will say to the Senator from Mississippi that the only possible resentment I might hold against the Senator from Mississippi—and otherwise I have the highest regard for him—is the fact that a great deal of the prosperity of Mississippi, and especially of that loamy belt along the river, is due to the alluvial wash which we send down the Mississippi from the State of Iowa. Some day I hope that the State of Mississippi will be kind enough to sort of help us out a little bit, when we get in bad financial straits, because of the use of all this soil over the years.

Mr. EASTLAND. Mr. President, that is a captive product. But I wish to make it clear that the farmer evidently got a rooking. The Republican national chairman went out to the great fertile State of Iowa, the heart of the Corn Belt of the world with a great corn, hog, and livestock production, and made a farm speech. According to my friend from Iowa, he did not offer anything that would increase the income of the farmer. He got by with it——

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

Mr. EASTLAND. Just a moment.

Mr. HICKENLOOPER. Mr. President, I am getting beaten over the head now.

Mr. EASTLAND. To add indignity to insult, he charged them $25 a plate for 50 cents worth of food, and the money went into the Republican war chest. As the Senator says, he did not promise to raise the price of corn. He did not promise to raise the price of cattle. He did not promise to raise the price of hogs. In other words, the farmers of Iowa got a rooking. They ought to vote Democratic.

Mr. HICKENLOOPER. I may say to the Senator from Mississippi that the Democrats have been in general control of the Congress for 24 of the past 28 years. During all that time the Republicans have been trying to do something for the farmers, rather than give them mere promises. We leave the promises for the Democrats. But if we get a chance we will actually do something for the farmers in the agricultural program.

So far as the substance of the speech of the Senator from Kentucky is concerned, it is a very good speech.

Mr. EASTLAND. The Senator has not answered the question. There is no substance to it.

Mr. HICKENLOOPER. It was a very good speech. I did not want to read the speech into the RECORD. I suggest to the Senator from Mississippi that he read the speech in the morning when it is in the RECORD. I think he will find that it is very sound economic philosophy.

Mr. EASTLAND. It is economic philosophy, but the farmer cannot eat that. He cannot pay his debts with economic philosophy.

The Senator referred to how long the Democrats have been in control of Congress. The distinguished Senator knows that we cannot get a farm bill by the White House. American agriculture would be floating in prosperity if the White House would let the Democratic farm programs by.

Mr. HICKENLOOPER. Let me say to the Senator from Mississippi that the farmer can come nearer to eating well if his problems are solved on the basis of economics, than he can on the promises of the Democratic Party, which are never fulfilled.

Mr. EASTLAND. He cannot get by on 12-cent hogs. That is the Republican farm program. We have passed farm bills that would help him, and the President has vetoed them.

Mr. HICKENLOOPER. I think the 12-cent hogs were under the Democratic control of Congress.

Mr. EASTLAND. Everyone knows that Mr. NIXON will be the Republican nominee for President.

Mr. HICKENLOOPER. Let me correct that and say that he is going to be the next President. We might as well jump that hurdle.

Mr. EASTLAND. Is he going to adopt the present farm philosophy of the White House?

Mr. HICKENLOOPER. I think Mr. NIXON will adopt his own philosophy. I do not know that he is going to adopt any philosophy merely because it is someone else's.

Mr. EASTLAND. Will the Senator answer the question? Is he going to adopt it?

Mr. HICKENLOOPER. I do not know exactly what philosophy he will adopt.

Mr. EASTLAND. In other words, the Senator is saying that Mr. NIXON might repudiate the present farm policies of the Republican leadership?

Mr. HICKENLOOPER. All I said was that I do not know what philosophy he is going to adopt. I think he will make his position clear at the proper time.

Mr. EASTLAND. I venture to say that the farmer will get another rooking then. I have heard for years from Republicans that "At the proper time we are coming up with a farm program." There has never been a thing that would add 10 cents to the price of hogs. There has never been a thing that would add two bits a bushel to the price of corn. That is what the farmer must have—not the economic philosophy about which we have heard for 30 years. It has not given the farmer a mouthful to eat in the 30 years. It is Republican hogwash.

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

Mr. EASTLAND. I yield.

Mr. AIKEN. I thank the Senator from Mississippi for yielding.

I wonder if we are not getting our national chairmen a little confused. If I read the ticker correctly, the national chairman of the Democratic Party has been in Iowa making a speech at an agricultural convention. I gather the Senator from Mississippi is not happy with the speech made by the Republican national chairman. I was wondering if it could be correct to presume that the Senator from Mississippi is extolling the virtues of the Democratic national chairman.

Mr. EASTLAND. No, I am not. I think he should be fired. But my distinguished friend from Iowa stood on the floor of the U.S. Senate and adopted the philosophy of the chairman of the Republican National Committee, and even described in detail how the Republican farmers of his State were rooked at a $25-a-plate dinner, for food that cost 50 cents. The only thing the farmers were fed was economic philosophy, which they cannot eat, and with which they cannot pay their debts.

Mr. AIKEN. How did the Democratic national chairman feed the group of college students in Iowa?

Mr. EASTLAND. The Democratic Party will pass a farm bill when we get control of the White House, that will make American agriculture lush with prosperity.

Mr. HICKENLOOPER. I thought it was the Congress that passed farm bills.

Mr. EASTLAND. We have been passing farm bills, and they have been vetoed.

Mr. HICKENLOOPER. The Democratic Party is in control of the Senate by 2 to 1, and in control of the House of Representatives by 2 to 1.

Mr. EASTLAND. The American people made the mistake of putting a Republican in the White House.

Mr. HICKENLOOPER. They made a fantastic mistake when they elected Democrats to the control of both Houses.

Mr. EASTLAND. How are the farmers to be fed with economic philosophy, which the Senator said the speech was? I have heard all my life about economic philosophy. I have heard big businessmen say, "We must handle this on an economic basis," and every time the farmer got his throat cut.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. EASTLAND. I yield.

Mr. LONG of Louisiana. Is it not true that one of the very few bills that has been signed since the Republicans captured the White House was a bill which they themselves sent down here, the Benson farm bill? Under that bill things got worse instead of better, as many of us predicted.

Mr. EASTLAND. I do not remember the details of any bill, but I know that it is to the interest of the American farmer in the South, the great Midwest, and in the Far West, that we have a sound Democratic President, with a Democratic Congress, and agriculture will be better off. We shall not have 12-cent hogs, and 75-cent corn, and feed the farmers economic philosophy.

Mr. HICKENLOOPER. I wish to emphasize to the Senator from Mississippi that it would be helpful in this country if once we had a sound Democratic President. That would be rather unique in recent times.

Mr. EASTLAND. We have had some sound Democratic Presidents.

Mr. HICKENLOOPER. I earnestly hope that a Democratic President would be sound, but I am not so certain that the prospects are good.

Mr. EASTLAND. Mr. President, I appeal from the judgment of my distinguished friend the senior Senator from Iowa to the judgment of the people of Iowa, when they overruled him and elected Harry Truman President of the United States.

Mr. HICKENLOOPER. Mr. President——

Mr. EASTLAND. Mr. President, I do not yield. I have the floor.

Mr. HICKENLOOPER. I renew my request that this address be printed at the conclusion of the Senator's remarks.

Mr. EASTLAND. Mr. President, may we have order? I am against the civil rights bill, and I propose to explain it in detail.

COMPENSATION OF YAKUTAT COMMUNITY OF TLINGIT INDIANS, ALASKA, FOR EXTINCTION OF THEIR ORIGINAL INDIAN TITLE

During the delivery of Mr. EASTLAND's speech in opposition to civil rights legislation,

Mr. BARTLETT. Mr. President, I ask unanimous consent, out of order, to introduce, for appropriate reference, a bill to provide compensation to the Yakutat local community of Tlingit In-

dians of Alaska for extinction of original Indian title. That community is 1 of 13 such native Tlingit communities recognized in the Tlingit and Haida special Jurisdictional Act of June 19, 1935, and in the findings annexed to the October 1959, decision of the Court of Claims. Today the Yakutat local community is the joint community of and successor in interest to the several native clans of Tlingit Indians which among them held original Indian title to the coastal area extending along the Gulf of Alaska from Cape Fairweather to the Copper River. Since February 6, 1953, this coastal area has been made the subject of numerous oil and gas leases by the United States.

The traditional policy of the United States has been to establish its vast public domain by purchase from the Indians rather than by confiscation. Evidence of this policy may be found in the statement of the President of the United States when he signed the Indian Claims Commission Act of August 13, 1946, and the Supreme Court decision in the Tee-hit-ton case at 348 U.S.

The jurisdictional acts implemented that policy by providing for appropriate compensation in the exceptional instances where taking by the United States had, for one reason or another, occurred without full provision having been made for reasonable and proper compensation. Both acts applied to Alaska—the 1935 act exclusively so, and the 1946 act to the entire Nation, including Alaska. Indeed, the Court of Claims has already decided that the Indians are entitled to judgment for the taking of vast areas of southeastern Alaska which had been incorporated into the Tongass National Forest and two other reservations.

Both acts, however, contained statutory limitations confining their application to causes of action—takings—which had accrued prior to their enactment. Thus, the final deadline under that legislation was 1946. The leases of approximately 2 million acres to which the present bill is directed were not made until 1953 and 1956.

The net result is that, as of today, unless this bill or comparable legislation to the same general effect is enacted, these leases stand as the only exceptional instances which have come to my attention either in Alaska or stateside, in which Indian title land is being taken and no available provision for making the traditional compensation has been enacted. Clearly the discrepancy must be remedied.

Unlike many instances of taking of Indian title, the United States has already received substantial revenues from these leases. Since the passage of the act of July 10, 1957, 71 Stat. 282, it has redistributed most such receipts back to the Territory and the State of Alaska as a whole. However, the United States has never shared any part of the proceedings with the original Indian owners, and I am advised that out of the receipts prior to July 10, 1957, the Federal Government has retained more than $500,000, according to Department of the Interior's records. Therefore, $500,000 would seem to be an appropriate amount for an award to the Indian community as proposed in this bill.

Mr. President, I believe the bill introduced today is equitable. I am convinced that approval of the bill by Congress will promote fairness and reflect favorably upon the Government and people of the United States.

The PRESIDING OFFICER. Without objection, the bill will be received and appropriately referred.

The bill (S. 3345) to provide compensation to the Yakutat local community of Tlingit Indians of the State of Alaska for the extinction of their original Indian title, introduced by Mr. BARTLETT, was received, read twice by its title, and referred to the Committee on the Judiciary.

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

Mr. BARTLETT. Yes.

Mr. EASTLAND. Who are the Tlingit Indians?

Mr. BARTLETT. The Tlingit Indians are one of the three Indian groups in that geographic area of Alaska commonly known as the "panhandle," which is occasionally referred to as "southeastern" Alaska. I wish to inform the Senator from Mississippi they have been there since, as the phrase runs, time immemorial. They are a wonderful group of people. They are civilized Indians.

Mr. EASTLAND. They are very fine people, I am sure.

Mr. BARTLETT. They are excellent people.

Mr. EASTLAND. Will the Senator continue to describe the Tlingit Indians? I am very interested that the Senate should be educated on the subject of the Tlingit Indians.

Mr. BARTLETT. I shall be glad to make whatever contribution I can in that respect.

Mr. EASTLAND. I will tell my distinguished friend from Alaska that I would be glad to help the Tlingit Indians in their problems with the Federal Government.

Mr. BARTLETT. I am delighted to learn of the Senator's interest. I know the Tlingit people of Alaska will likewise share in my gratification. The Tlingit and Haida Indians in this geographic area I have already described number about 6,000 people who, since ancient times, have lived chiefly from the sea. They also have certain land rights. In a recent court of claims decision in respect to their brethren a bit farther to the South those rights have been recognized.

Mr. EASTLAND. Mr. President, will the Senator yield for a question?

Mr. BARTLETT. I yield gladly.

Mr. EASTLAND. I should like to know about their neighbors to the south. Who are they?

Mr. BARTLETT. The other Tlingit people.

Mr. EASTLAND. I see.

Mr. BARTLETT. Their claims were recognized in the court of claims decision. These particular people, the people in whose behalf I have now introduced the bill, were not recognized in the decision. The bill seeks to grant justice to this relatively small group of Tlingit Indians living in north southeastern Alaska.

Mr. EASTLAND. May I ask the Senator another question?

Mr. BARTLETT. I would be glad to respond to the best of my ability.

Mr. EASTLAND. Do these people vote Democratic or Republican?

Mr. BARTLETT. I should like to inform the Senator that they almost always vote Democratic.

Mr. EASTLAND. Then they vote for my distinguished friend from Alaska. I am certainly for the bill, Mr. President.

Mr. BARTLETT. On occasion they do, and sometimes they do not.

Mr. EASTLAND. Does the Senator mean to tell me that those people use bad judgment at times?

Mr. BARTLETT. Sometimes. They are a group of people who are not fixed in any one political party. They are like all American citizens anywhere. They sometimes vote Democratic and sometimes vote Republican. I am happy, though, to be able to relate to the Senator that the majority of them on the majority of occasions do vote Democratic.

Mr. EASTLAND. Mr. President, will the Senator yield for a question?

Mr. BARTLETT. I yield gladly.

Mr. EASTLAND. Is my distinguished friend sure they will vote Democratic this year?

Mr. BARTLETT. No; I cannot be positive of that.

Mr. EASTLAND. Then possibly we should pass the bill.

Mr. BARTLETT. Even if they did not vote Democratic, the bill is an excellent one.

Mr. EASTLAND. Is it meritorious?

Mr. BARTLETT. It is meritorious, notwithstanding. I thank the Senator for his interest in this particular bill.

Mr. EASTLAND. Does the distinguished Senator desire to have me vote for the bill?

Mr. BARTLETT. Yes; I would appreciate it.

Mr. EASTLAND. Mr. President, I am going to support the bill. The Senator has at least one vote. I think the distinguished Senator from Alaska is very able and very intelligent. A bill he introduces for the people of his State should certainly be meritorious. I am going to support it.

Mr. BARTLETT. If the Senator will permit me to so state, if I can convince the other Members of the Senate so speedily of the correctness of this policy we will all be much happier.

Mr. EASTLAND. I thank the Senator. I am sure, as persuasive as is my friend, he will have no trouble convincing the Democrats and the Republicans of the merits of the bill.

Mr. BARTLETT. Once more I want to thank the Senator for his exceeding courtesy.

CIVIL RIGHTS ACT OF 1960

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

Mr. STENNIS. Mr. President, during the course of this long debate, and especially since that section which is now title VI has taken on its main form, particularly with reference to the referee section, I have been formulating in my mind some points in connection therewith, which I want to bring to the attention of the Senate as forcibly as I know how. I shall bring them to the Senate's attention particularly with reference to the viewpoint of what I imagine would be the attitude of a court or of a judge who had these extra duties imposed upon him. I also want to consider these points from the standpoint of a court which would be called upon to pass upon the validity of the act.

Mr. President, when one reviews in its entirety the ramifications of this title VI, the so-called referee plan, one is really grievously concerned and surprised that a rambling measure of this kind involving the judiciary could emanate from some mind within the Attorney General's office. Apparently it did not all come from there, because the germ of it is supposed to have come from the Civil Rights Commission, which recommended a plan including a floating registrar or Federal registrar of some kind, who was to be appointed by the executive branch of the Government. I am compelled to say that simply from the standpoint of whether the remedy to be supplied, if one is needed, is going to be executive or judicial, it is far better that it be taken from the judiciary than from the executive branch of the Government. The President, of course, does not have an opportunity to give such matters personal attention, nor does the Attorney General, as far as that is concerned, except in setting a general policy.

To usurp the powers of registrars and election officials, as this bill contemplates, under executive appointments by the Federal Government, would be unthinkable. Certainly I do not believe this bill will ever become operative, because in my opinion it will be declared invalid and beyond the purview of the Constitution of the United States. I am referring now to title VI. But certainly if the bill should become operative, it would be far better to have it under some kind of judicial decision than otherwise.

I mention another thought, Mr. President, which has come to me during this long debate. It has given me a greater appreciation of the Constitution and a further realization of the neglect and disuse, as well as misuse, of our organic law, when I have contemplated the extent to which this country had departed from that organic law.

I say deliberately and in all seriousness, Mr. President, that I believe a Senator of the United States could better serve his country if he would resign his committee assignments and spend his entire time on the floor of the Senate, rather than devoting so much of this time and talent to the innumerable, endless committee hearings on voluminous bills. A Senator could better serve his country in that manner, after making special preparation therefor in constitutional law, refreshing what knowledge thereof he has, and renewing and augmenting that knowledge. Then the Senator could spend his time on the floor doing what he could toward steering the mass of proposed legislation as it comes along, from day to day and month to month, keeping that proposed legislation within the constitutional confines of our organic law.

Following such a course, Mr. President, not much headway could be made for a considerable period of time, but within the span of 10 years or so perhaps real progress could be made in reeducating the American people to a greater realization of exactly what is the guardian of our rights, the protector of our essential rights, which constitute freedom, so that there might be a reorientation of the points of view of our entire Nation, the Congress included, toward applying the yardstick of the Constitution to legislation that may seriously be considered for passage.

Such a rule should be applied, Mr. President, whether the legislation be group legislation or be sponsored by particular pressure groups, or whether it be for any segment of our economy.

We talk about frontiers and new plateaus—the old terms as well as the new terms of science and technology and military development. But what America needs, Mr. President, is a new plateau of earnest consideration and real adherence to the basic principles of our fundamental law.

I have found that this entire bill, Mr. President, referring particularly to title VI, is honeycombed with illegal and unlawful provisions in regard to the control of Federal and State elections through an alleged judicial supervision by the Federal courts. It has been said, Mr. President, that if existing standards are followed by the courts, the Federal judiciary will refuse to allow its powers to be corrupted in this fashion and, to use a Biblical term, will "spew" this act out of its mouth and expressly declare it invalid and unconstitutional.

As one who has followed the law for a good number of years, Mr. President, I do not believe that the Federal court is going to permit itself, as an institution, to be prostituted and to be made an administrative or supervisory agency to the extent that is provided in this bill, over and over and over again.

Mr. President, as to some of the provisions of the bill which would be brought before the Federal court, that court would be acting more in the nature of a sanitary board or commission, a very low level in government.

Article III, section 1 of the Constitution of the United States, is the only line of law which has to do with the judicial power of the United States. That section provides as follows:

> The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish.

Omitting the latter portion of section 1, section 2 then provides:

> The judicial power shall extend to all cases—

And then omitting a few phrases—

> and to controversies.

Thus we have a vesting of the judicial power in the courts, and a further provision that this power shall extend to "cases" and "controversies." Such is the entire import of sections 1 and 2 of article III.

The case or controversy in question, in the proceedings provided for in title VI, would be the original suit brought by the Attorney General under the Civil Rights Act of 1957, which title VI of this bill proposes to amend. When that case or controversy is decided by the Federal judge, and a decree then entered, the court will have exhausted its authority, except to see that its orders are carried out.

This was the conception of a case or controversy at the time the Constitution was written, and this is the conception today, and has been, without interruption, over the decades. This is, of course, elemental law. I have prepared this argument not from a so-called legalistic standpoint. There are numerous cases to reiterate and affirm what I have said here. I am trying to present my argument in a manner that will be understood by laymen who might care to read it. I repeat that this kind of cases or controversies, which contemplate that evidence shall be heard by a court and a decree entered, represent a conception of the power conferred when it was conferred, and has been since and still is.

These simple words define the beginning and the end and the boundary of this judicial power of the United States, and of our grant of authority to create the courts and vest them with this power.

However, in the bill we would undertake to compel the court—not permit it, but compel the court—to make a further finding that a certain pattern or practice exists. The exact language to which I refer at this point in my argument appears at page 15 of the printed text of the bill, beginning near the middle of line 23, and reads as follows:

> The court shall upon request of the Attorney General and after each party has been given notice and the opportunity to be heard make a finding whether such deprivation was or is pursuant to a pattern or practice.

I call particular attention to the fact that this is a mandatory provision in the bill. It applies after a decision has been rendered in a case or controversy before the court. Another person not connected with the other parties, unless the Attorney General is his attorney and an additional matter have been presented to the court. We compel the court, on the motion of the Attorney General, to make a finding whether a certain pattern or practice exists as to an alleged discrimination.

The point is that the court has authority to exercise such power in this extraneous matter, but the Congress has no authority to compel the court to go out on this venture. These are serious

matters we are dealing with. This is not a trivial matter. The district court of the Federal Government is not a trivial matter. This is not a summary proceeding. This is a constitutional court. Congress cannot compel it to go out in this extraneous matter. We are compelling the court, through legislation, to make a finding. We say it shall make a finding on request of the Attorney General. Certainly Congress cannot dictate to the court as to how it shall proceed in a particular case; neither can it dictate to the court to make a finding on an extraneous matter. The court would be, in effect, a weapon of the Attorney General in making a purely administrative decision.

The Federal judiciary should, and I believe will, highly resent any such attempt at legislative mandate. I believe that the court will spew this act out of its mouth and certainly declare section 6 unconstitutional. I wish to repeat for emphasis that this matter of a pattern or practice that we have heard so much about is purely an additional and unnecessary transaction so far as the case is concerned.

I do not like to refer to myself or to my experience. However, I know as a trial judge, the concern and responsibility a judge feels in having to rule on cases and in deciding matters.

After a court has made its ruling, they would come in and say, "We want the court to go back. This does not relate to the litigant's rights. This is not a part of the case or controversy. This is proof that has come out today. We want the court to go back and raise an umbrella over a certain area. We have a mandate from Congress that the court shall make a finding."

Mr. President, plain commonsense would teach anyone who has thought through this matter that just because that matter is in the courtroom does not make it a court matter or a judicial matter, but that it is an additional or extraneous matter, and a fishing expedition on another course of action. That is what it is.

We are asked to give it a certain solemnity. They say that the President has approved it and that the Attorney General has recommended it. They have filed their case with both political parties, but it is still fatally defective, because it does not come within the purview of the Constitution, this basic law, and it is not a part of the case and not a part of the controversy, and it has no standing in a court of law or a Federal district court, and should be stricken out of this bill.

Under the Constitution, Congress has no grant of authority to bestow such power on a Federal court to make such a general finding. Under the Constitution, the court has no grant of authority to use any such power. The only power a court has is judicial power, and it is so stated on the face of the Constitution itself. The bill provides no judicial power with reference to the plan or pattern which paves the way for the referee. This is not an administrative matter setting the stage for more cases. It is litigious. It is the stirring up of litigation in a decree.

I am not arguing that a remedy may not be needed or that a problem may not exist in places, although not as serious as has been blown up in the press. That is not the point. My point is that title VI does apply a legal remedy. If Congress really wants to go into the matter, why not simply pass a law which provides that anyone charged with registration duties who discriminates against any applicant because of race or color is guilty of a Federal crime, and provide a certain punishment therefor. That is a matter over which Congress no doubt has jurisdiction. We now have a law along that line. If it is not specific enough, or if the punishment provided is not severe enough, Congress can take action so as to approach such problems as may exist. That is the way other matters are approached. If they are not reached in that way, the action is beyond the authority of the Constitution.

Has any other law like this ever been passed to take care of a similar problem? This is the congressional way, this is the legal way, to approach the problem. But it seems that no one is interested in that approach. It is not dramatic enough. It is not backed by any organization. It has not been recommended by any commission.

Still, that is the way to approach this problem. It will preserve constitutional principles. Where results are sought they can be obtained by going right down the middle of the constitutional road.

I submit again, and I repeat for emphasis, that under the Constitution, Congress has no grant of authority to bestow on a Federal court such power as is provided in the pattern or practice idea. Moreover, under the Constitution, a Federal court has no grant of authority to use such power. So the entire concept of the pattern or practice plan, which is an umbrella under which the remainder of title VI operates, therefore falls, and with it the further provisions of title VI fall.

Mr. President, I do not mind having to speak against several Senators who are conversing on the floor, but I do not like to have to compete with a Senator who is using a telephone on the floor, and who is talking perhaps louder than he intends to. With the permission of the Chair, I shall cease and desist speaking now until Senators on the floor who are using the telephones are finished. I hope the Chair will protect me and that I will not lose the floor.

The PRESIDING OFFICER. The Senator from Mississippi may now proceed.

Mr. STENNIS. I thank the Chair.

Mr. President, the next step in the pattern or practice plan falls for the same reason. It is beyond the power of Congress to bestow such power, and it is beyond the authority of the court to use such power. I refer now to page 17 of the bill, beginning in line 7:

> The court may appoint one or more persons who are qualified voters in the judicial district, to be known as voting referees.

We must remember, Mr. President, that voting referees are not to be appointed as an ancillary step in the trial of the original case filed by the Attorney General. That case or controversy will already have been completed. The applicant will also have been adjudicated and will be entitled to vote or will not be entitled to vote. We must also remember that the conduct of the referees in the performance of their acts is a part of the compliance with the decree of the court in the original case or controversy.

I can find no real connection between the referees and compliance with the original decree of the court which was filed under the 1957 Civil Rights Commission Act. That decree stands on its own bottom and the referees have no power under title 6 to have anything to do with it.

So the proceedings before the referees are purely additional proceedings, operating under the guise of judicial functions, but in fact and in reality they are purely administrative matters, and are not only beyond the needs of the case which was actually tried, but are beyond the judicial function of the court.

I am willing to have my own argument stand or fall upon these assertions. The referees are not connected, top, side, or bottom, with the case on which the Attorney General went into court. That case has already been decided, and a decree rendered therein.

Referring again to the measure which is before the Senate, on page 17, line 11, the language provides that the referees are "to serve for such period as the court shall determine."

What are they going to do? The language sounds really judicial. They are to receive applications and take evidence. That sounds like the proceeding will be a case in controversy. Then the referees are to make a report and submit findings to the court.

When we get down into the fine print, we find it is somewhat similar to the old saying about the language of an insurance policy. There are very pleasing sentences at the top about all the protection the person will get; but upon reading the fine print, we find that much of the protection has been taken away.

When we drop down to line 20, which deals with the referee, we find that the meaning of the big print used in line 11, which sounds so judicial when it speaks of taking evidence and reporting findings to the court—all of which would seem to mean conclusions based on the evidence and deliberately arrived at—is entirely taken away, because in line 20 we find that the applicant is to be heard ex parte. Mr. President, does that sound as if the proceeding would be a judicial proceeding? Does that sound as if there would be a weighing of the evidence and a real report of the findings, based on that evidence? Does that carry with it the idea of hearing both sides to the controversy? Certainly all those things are essential parts or elements of due process of law, the very foundation stones of due process of law. Does that carry with it the idea of confrontation of the parties and confrontation of the witnesses? There would not be a scintilla of that, Mr. President. Does that carry with it the idea of cross-examination, another essential part of due

process? Certainly there would not be a scintilla of such things.

Then, Mr. President, how can that finding be anything in the nature of a judicial process or a judicial conclusion? That would make a farce out of the words used at the top of the page—to talk about taking the evidence and reporting the findings—and then a little farther down on the page we find that there would be taken away from the proceeding every vestige of a judicial nature which apparently was vested in the proceeding by means of the provisions used in the first part of this proposed grant of power.

So, Mr. President, for that additional reason, I say that this proposed grant of power in title VI has no place in any judicial functioning of a court and has no place in the realm of congressional grants of authority in connection with legislation to provide for a hearing in connection with such a matter. In other words, this is just a scheme based upon the original idea of the Civil Rights Commission—the idea of having Federal registrars.

As I have said, some protection and some guidance would be had in connection with the exercise of responsibility by a judicial officer. But certainly the proceeding would not be a judicial proceeding just because it would be brought into a courthouse and just because an attempt would be made to give the judge some authority and some responsibility under this act.

But, Mr. President, that is not all that gives an indication of the real nature of the proposed proceeding. I turn now to page 19; and in line 5, I read the following:

> The applicant's literacy and understanding of other subjects shall be determined solely on the basis of answers included in the report of the voting referee.

Mr. President, if there had heretofore been any doubt or if there had been lacking any unmistakable sign of the nature of the proceeding, if there had been any doubt that it would be nonjudicial and nonjudicious in character, those lines, as I have just read them—a proposed solemn mandate by the Congress—take away the last vestige of any such doubt. This is the same voting-referee proposal that started out with the very high-sounding words to the effect that the referee was going to take evidence and was going to report his findings to the court. But this provision winds up with the proposed mandate I have just now read, and which I shall now repeat, for emphasis—and I quote once more from the bill:

> The applicant's literacy and understanding of other subjects shall be determined solely on the basis of answers included in the report of the voting referee.

Mr. President, I never before heard, and I do not think anyone else ever before heard, of a serious proposal that Congress create a judicial proceeding and provide that a matter be put into court, but in the next breath talk about ex parte hearings in which no one except the applicant in the case would be heard; and thereafter talk about making findings, but in the next breath say that the testimony of the party in interest must be taken, and that on those particular points that would be the conclusion of the so-called findings.

In other words, Mr. President, under the guise of laying down semirules of evidence, we would merely be creating conclusive presumptions on the basis of the most flimsy and most uncertain kinds of proof.

I say that would make a monstrosity out of the term "due process of law" in our Constitution, and would make a joke and a farce out of the entire proceeding, insofar as concerns the adoption of any such rules of procedure for a Federal court; and I repeat that the Court ought to spew the whole thing out of its mouth and declare it unconstitutional; and I believe that is what the Court will do.

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

The PRESIDING OFFICER (Mr. SPARKMAN in the chair). Does the Senator from Mississippi yield to the Senator from Georgia?

Mr. STENNIS. I yield.

Mr. RUSSELL. Mr. President, I ask the Senator from Mississippi to yield to me, with the understanding that his action in doing so will not in any way affect his right to the floor. Let me state that at this time I should like to suggest the absence of a quorum.

Mr. STENNIS. Mr. President, I so request.

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

Mr. RUSSELL. Then, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIRKSEN. Mr. President, I ask unanimous consent that the order for the call of the roll be rescinded.

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

Mr. STENNIS. Mr. President, I understand that the Senator from Illinois has a proposal to submit.

Mr. DIRKSEN. That is correct.

Mr. STENNIS. Under the circumstances, Mr. President, I now yield the floor.

Mr. DIRKSEN. Mr. President, in behalf of the majority leader and myself, I desire to submit two requests to the Senate.

First, I ask unanimous consent that when the Senate ends its session today, it stand in recess until 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

Mr. DIRKSEN. Mr. President, inasmuch as the motion by the distinguished Senator from Louisiana [Mr. ELLENDER] to strike title VI is pending, and my motion to table that motion is pending, I ask unanimous consent that at the hour of 11 o'clock tomorrow morning we vote on a motion which I expect to make then to table the Ellender amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. DIRKSEN. I think I am authorized, then, to announce that there will be no votes tonight, and I do not know whether other Members of the Senate——

The PRESIDING OFFICER. May the Chair remind the Senator from Illinois that his motion to table has not been made.

Mr. DIRKSEN. That is correct, except that the Senator from Illinois does have the floor.

The PRESIDING OFFICER. The Senator is correct, and if the Senator maintains the floor and is holding it at 11 o'clock tomorrow morning, he can make the motion to table without unanimous consent.

Mr. DIRKSEN. Mr. President, all these requests and suggestions I make subject to the reservation that I do not lose my rights to the floor at the hour of 11 o'clock tomorrow morning.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Illinois that he be entitled to the floor at 11 o'clock tomorrow morning for the purpose of making the motion to table? The Chair hears no objection, and it is so ordered.

Mr. DIRKSEN. Mr. President, may I inquire of the distinguished Senator from Mississippi whether he proposes to continue his discussion tonight?

Mr. STENNIS. Mr. President, I should like to continue, briefly, tomorrow.

Mr. DIRKSEN. Tomorrow?

Mr. STENNIS. Yes. There will be a morning hour after the vote, will there not?

Mr. DIRKSEN. We shall ask consent for a morning hour.

Mr. STENNIS. We can divide the time, I am sure.

Mr. RUSSELL. Mr. President, if the Senator will yield, I thought the distinguished Senator from Illinois had asked to have the time divided.

Mr. DIRKSEN. I did not, because if we are going to have a morning hour——

Mr. RUSSELL. Will the time be divided evenly?

Mr. DIRKSEN. Whatever time is available.

Mr. STENNIS. But I will have the floor, will I not?

Mr. DIRKSEN. Mr. President, I include in my request that when the Senate convenes at 10 o'clock tomorrow morning—there will doubtless be a request for a morning hour—after the morning hour is concluded, the remaining time between then and 11 o'clock, shall be equally divided.

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

Mr. DIRKSEN. Yes.

Mr. STENNIS. There are other Senators who wish to speak on this motion. May the Senator from Mississippi suggest that we have the morning hour after the vote, and have at least 1 hour for discussion?

Mr. DIRKSEN. I would have no objection to that. So the understanding is that the Senate will convene at 10 o'clock, that the time from 10 until 11 o'clock will be equally divided between the opponents and proponents of the pending motions, and that the Senate vote at 11 o'clock.

Mr. STENNIS. Mr. President, can the Senator from Mississippi have the floor for 10 minutes?

The PRESIDING OFFICER. The Chair will state that the Senator from Illinois will have control of the time. As the Chair understands, it is agreed the time will be equally divided.

Mr. DIRKSEN. Yes, and it is understood that the Senator from Illinois retains his rights to the floor. With that understanding, of course, the Senator from Illinois will be generous indeed to his distinguished friend from Mississippi.

The PRESIDING OFFICER. May the Chair inquire of the Senator from Illinois as to who will control the time for the proponents of the motion? The Chair presumes the Senator from Illinois will.

Who will control the time for the opponents?

Mr. DIRKSEN. The majority and minority leaders will control the time.

The PRESIDING OFFICER. May the Chair ask one other question for clarification. With reference to the morning hour, is it intended to be included in the agreement that following the vote on the motion to table, the morning hour will come?

Mr. DIRKSEN. That will have to be done by consent.

The PRESIDING OFFICER. At that time?

Mr. DIRKSEN. Yes.

The PRESIDING OFFICER. Is there objection to the unanimous consent request by the Senator from Illinois? The Chair hears none, and the request is agreed to.

The unanimous-consent agreement, as subsequently reduced to writing, is as follows:

Ordered, That, effective on Thursday, April 7, 1960, during the further consideration of the amendment by the Senator from Louisiana [Mr. ELLENDER] to strike out title VI of the bill (H.R. 8601) to enforce constitutional rights, and for other purposes, all debate be limited to 1 hour, beginning at 10 o'clock, to be equally divided and controlled by the majority and minority leaders, and that at 11 o'clock the Senate proceed to vote on a motion to be offered by Senator DIRKSEN to table the amendment by Senator ELLENDER.

The PRESIDING OFFICER. Does the Senator from Illinois yield to the Senator from Mississippi?

Mr. DIRKSEN. Mr. President, does the Senator from Mississippi wish to proceed at this time?

Mr. STENNIS. No.

TRANSACTION OF ADDITIONAL ROUTINE BUSINESS

By unanimous consent, the following additional routine business was transacted:

ADDITIONAL BILL INTRODUCED

Mr. BARTLETT, by unanimous consent, introduced a bill (S. 3345) to provide compensation to the Yakutat local community of Tlingit Indians of the State of Alaska for the extinction of their original Indian title, which was read twice by its title, and referred to the Committee on the Judiciary.

(See the remarks of Mr. BARTLETT when he introduced the above bill, which appear under a separate heading.)

RECESS TO 10 O'CLOCK A.M. TOMORROW

Mr. DIRKSEN. Mr. President, under the circumstances, unless there are insertions to be made in the RECORD, or other business, and in conformity with the order just entered, I move that the Senate now recess.

The motion was agreed to; and (at 9 o'clock and 15 minutes p.m.), pursuant to the order previously entered, the Senate recessed until tomorrow, Thursday, April 7, 1960, at 10 o'clock a.m.

NOMINATIONS

Executive nominations received by the Senate April 6 (legislative day of April 5), 1960:

IN THE NAVY

The following-named midshipmen (Naval Academy) to be ensigns in the line of the Navy, subject to the qualifications therefor as provided by law:

Dean A. Ablowich
Alan B. Adler
Daniel J. Affourtit, Jr.
William L. Aldrich
James W. Allen
Robert E. Allison
Robert J. Amend
Albert M. Ames
Roger A. Anderson
Thomas M. Anderson
John A. Anthony III
Richard C. Antolini
Robert J. Antonio
Francis J. Aragona
Paul C. Ausley, Jr.
Malcolm A. Avore
Ronald C. Babcock
William E. Babiash
Charles E. Bailey, Jr.
Stanley J. Bailey, Jr.
Arthur J. Baker III
Robert P. Baker
Gary D. Ballard
William C. Ballard
Charles L. Ballou
Richard M. Banister
David R. Banner
Charles C. Barcus
Harley H. Barnes, Jr.
Larry E. Barringer
Frank S. Bartolett III
Glenn L. Barton
William F. Bass
John K. Batchellor, Jr.
Henry W. Bates
James C. Beam
Fred A. Bee
William R. Bees
Nolie L. Bell
Robert W. Bell, Jr.
Robert G. Bengston
Roger L. Bennett
Jerome E. Benson
Perry S. Benson
Edwin W. Besch
John A. K. Birchett III
Richard Birtwistle III
Allen M. Bissell
Charles R. Blair
Warren J. Blanke, Jr.
Alvin F. Blockinger, Jr.
Norman C. Bloom
Donald V. Boecker
Dallas B. Boggs
David R. Bolden
Gordon A. Bonnel
Joseph E. Bonneville, Jr.
Ronald "J" Booth
Peter G. Bos
Robert H. Bourke
Robert J. Bowman
Larry A. Boyer
Roland Brandquist
Harry W. Branson, Jr.
Frank B. Braun
Robert J. Brenton
William Bringhurst, Jr.
John C. Broach
Donald E. Broadfield
John L. Brockman, Jr.
Carl E. Bruntlett
Roy R. Buehler
James P. Bullock
Ronald E. Burdge
Walter W. Burns, Jr.
Eugene S. Burroughs III
Harry P. Butler
Barry J. Byrne
Robert A. Byrne
William E. Callaway, Jr.
William R. Calvert
James J. Cameron
Patrick J. Carlson
John D. Carpenter, Jr.
Paul L. Carwin
Gordon C. Caswell
John P. Cecil
Peter G. Chabot
David A. Chain
Eugene J. Chancy
John H. Chenard
David G. Chew
Henry G. Chiles, Jr.
Charles E. Christopher
Michael A. Ciocca
John S. Claman
Daniel B. Clark
Kenneth G. Clark
Spencer Cleveland
Edward W. Clexton, Jr.
Gary B. Cogdell
Thomas J. Cogdill
Joseph D. Cole
Robert J. Colegrove
Glenn W. Coleman
Michael C. Colley
Charles R. Collicott
Jean-Loup R. Combemale
Charles I. Cook
Jerry A. Cooper
Paul W. Cooper, Jr.
Robert A. Correll
Robert D. Correll
Andrew G. Cotterman
Daniel T. Coughlin, Jr.
William G. Counsil
Charles J. Cox
Larry G. Cox
William D. Craver
Denis H. Crawford
Charles H. Crigler
David M. Criste
Hugh E. Crow
Walter S. Cumella
Thomas G. Curtis
Dennis M. Davidson
William G. Davidson III
George W. Davis 6th
Richard B. Davis
Howard D. DeLude
George E. Denn, Jr.
William Dimsdale
John V. Dirksen
Joseph C. Dobes
Richard E. Dodson
Peter B. Dolan
Thomas M. Donahue
George W. Dowell III
James I. Dudley, Jr.
Francis K. Duffy
James F. Duffy
Edward H. Duggan, Jr.
James M. Dunn
Lawrence E. Dunne
Ronald L. Earle, Jr.
Bernard E. Eberlein
James T. Eilertsen
Donald G. Eirich
Jon H. Esslinger
James R. Evans
William R. Evans
Leon E. Everman
Dennis J. Falk
Joel W. Febel
Jerome J. Fee
Michael R. Fenn
Robert A. Fisher
Charles F. Fischer II
James F. Fitzgerald
Raymond N. Fitzgerald
Charles H. Fleming, Jr.
Donald G. Foery
William H. Foley, Jr.
Kenneth D. Folta
William L. Foster, Jr.
Robert L. Freehill
Alfred R. Friedmann
Robert V. Gamba
Heisey E. Gardner
Peter J. Garfield
Robert E. Gasser
David P. Gauthier
Michael W. Gavlak
David W. Geer
John B. Geller
David S. Gilbreath
William M. Gillespie
Lewis C. Gillett, Jr.
James R. L. Gilstrap
Gordon T. Godwin
Mark M. Golden
David J. Goniea
Walker R. Goodrich, Jr.
Jay T. Grafton
Samuel J. Greenberg
John E. Greenhalgh
Gary J. Gretter
Robert H. Gridley
Robert N. Griffin
George S. Grossman III
John F. Groth
Ralph S. Hagelbarger
John M. Hagen
Frederick G. Hale
Bruce Halliday
Benjamin H. Hallowell, Jr.
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Roger G. Hamm
Charles M. Hammond, Jr.
Richard W. Hamon
James E. Hancock
David R. Hand
Eigil L. Hansen, Jr.
Ralph E. Hanson, Jr.
Jon D. Harder
Bruce H. Hardin
Richard T. Harper
Carl E. Harris, Jr.
William D. Harrison
William J. Hastie
David E. Haughton
Russell O. Hays
Paul C. Hazucha
Louis W. Heacock
Thomas A. Head
David M. Heath
Lawrence S. Helms
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Dennis J. Hickey IV
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Ronald W. Hinkel
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James R. Howard
Terrence C. Hubbard
Royston C. Hughes
Frank M. Hunt, Jr.
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Thomas A. Hyde
Robert J. Ianucci
Raymond P. Ilg
William T. Inderlied III
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Frederick B. Johnson
Douglas M. Johnston, Jr.
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Raymond G. Jones, Jr.
Walter R. Jones
Alexander J. Jordan, Jr.
John L. Jordan, Jr.
David G. Kalb
Angelo N. Karampelas
Francis D. Kay
William D. Kee, Jr.
Edward N. Keliikoa
Gene P. Kesler
Charles R. Khoury, Jr.
Edwin E. Killinger
James R. Kinney
Gene F. Kishel
David J. Knorr
Charles E. Koch II
Ronald L. Koontz
Elmer M. Kopp, Jr.
Robert J. Kowall
Harvey F. Kramer
Robert A. Krese
Gail A. Kristensen
George P. Kroyer

Alan H. Krulisch
Robert E. Kunkle
Lennis L. Lammers
Walter R. Land
James R. Lang
Alan E. Lansdowne
Peyton R. Latimer
Larry B. Laudig
John M. Lavelle
Richard J. Lavery III
Henry A. Lawinski
John F. Leahy III
Michael J. Lees
Girard T. Lew
Harry C. Lewis
Porter Lewis, Jr.
Roy T. Lewis, Jr.
William E. Lewis, Jr.
Walter J. Lippold
James W. Littlefield
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Alexander S. Logan
Gaeton A. Long, Jr.
Harold L. Longaker
Edward B. Longton
Kenneth W. Loveland
Robert W. Lowe
Ivon H. Lowsley, Jr.
John M. Lusignan
John F. Lynch, Jr.
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Carl P. McCallum
Charles E. McCaskill, Jr.
Ted McClanahan
Ralph G. McClarren
Thomas W. McClure
James M. McConnell
Jimmy H. McCoy
John C. McCrork, Jr.
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Thomas F. McDonough
Charles E. McHale, Jr.
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Douglas E. McKinley
James B. McKinney
James R. McLean, Jr.
John M. McNabb
Richard C. Macke
Kenneth L. MacLeod III
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George S. Makovic
Edmund L. Mangan
William S. Manning
Robert J. Manser
George G. Marburger, Jr.
David L. Mares
Gilbert T. Mariano, Jr.
David R. Marquis
George M. Marr
Frederick G. Marsh
Ronald P. Marshall
Thomas J. Marti
Clifford I. Martin
Charles M. Maskell
Robert D. Matulka
Myrel LeR. Maxson
William W. Medaris
Thomas A. Meinicke
John C. Mendelis
Douglas K. Menikheim
Benjamin F. Mercer III
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Martin P. Merrick
Michael H. Merrill
Robert A. Meyer
John J. Michalski, Jr.
Michael T. Midas, Jr.
Donald L. Miller
Norman W. Mims, Jr.
David C. Moerschel
Gerald F. Montague
David R. Montgomery
David K. Moore
Dennis A. Moore
Alfonso H. Morales
Maurice J. Moran
Jon E. Morrissey
Frederic I. Morrow
Carleton E. Mott
Marvin F. Mucha
William S. Muenster
Francis X. Munger
Allan W. Murray
John J. Murray
George C. Myers, Jr.
James J. Neal
Gerald A. Nelson
Donald W. Newman
Jack G. Newman
Murray C. Nixon
Paul S. Norton
George D. O'Brien, Jr.
Ward J. O'Brien
James T. O'Farrell
William P. Olsen
Ronald G. Overstrom
Joseph L. Pace
Joseph Paletta, Jr.
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Paul W. Parcells
Richard R. Pariseau
Charles S. Parker
David L. Parkinson
William T. Parlette
Ira E. Parry, Jr.
Edwin F. Parsons, Jr.
James H. Patton, Jr.
Michael F. Paul
Thomas D. Paulsen
Alvin H. Pauole
Robert G. Pearce
Joseph H. Peek
Lyman S. A. Perry
Charles H. Peterson
Harold A. Peterson
John A. Pethick II
Walter A. Pezet III
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Larry LaM. Phemister
James W. Philbrick, Jr.
Frederick E. Phillippi, Jr.
Glen R. Phillips
Henry L. Phillips, Jr.
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Grant W. Plummer
Chris H. Poindexter
Jack O. Polk II
Roderick H. Potter
William L. Powell, Jr.
Byron L. Powers, Jr.
Robert C. Powers
Robert J. Powers
James T. Prather
George J. Prebola
Francis I. Previte, Jr.
James B. Ramsey
William F. Ramsey
Edward A. Ransom
Francis R. Rapasky
Richard C. Ravetta
David A. Raymond
Robert W. Raymond
Evan P. Reese
Ronald M. Reese
Robert R. Renner
Russell Rentfro, Jr.
Paul M. Ressler
James C. Reynolds
Forrest T. Rhodes
John R. Richardson
Howard L. Richey
John H. Rickelman
John T. Riley
Roy "G" Riley
Henry J. Rinnert
William M. Roark
Charles K. Roberts
Bernard F. Roeder, Jr.
Eric M. Roemish
John L. Rogers
Roy L. Rogers
Robert P. Rognlien
Robert C. Rohr
Joseph R. Rosengren
William M. Ross, Jr.
Daniel McK. Roth
James E. Rowley
George E. Ruckersfeldt
George H. Rudy III
John F. Ruhenberger
Robert R. Rutherford
Kevin T. Ryan
Larry E. Ryan
Albert Ryder
Colin H. Saari
Donald W. Sanders
Lawrence F. Sarno
Franklin H. Saunders
Kenneth D. Savage
Fred R. Scalf, Jr.
John R. Scarborough, Jr.
Stephen J. Scheffer
Donald L. Schlicht
John A. Schmidt
Luther F. Schriefer
Raymond C. Schroeder, Jr.
William A. Schroeder III
Robert J. Schulz
Earle G. Schweizer, Jr.
Frederick A. Schwer, Jr.
Sidney L. Scruggs III
Stewart R. Seaman
Joseph L. Sestric
William W. Shafer
Peter A. Shanley
Michael E. Shanok
Grant A. Sharp
John B. Sharp, Jr.
John F. Shaw
Richard S. Shawkey
Brian M. Shea
Jimmie S Shipp
Frank T. Simpson
Howard L. Sipple, Jr.
Gerald T. Skidgel
Norman L. Slezak
Hugh J. Smith, Jr.
Robert C. Smith
Robert E. Smith
Ronald C. Smith
Roy C. Smith IV
Walter I. Smits
Wendell D. Snell
Melvin H. Sollberger
Paul W. Sparks
William R. Spearman
Harris Sperling
Nicholas J. Stasko
Robert L. Steele
Robert G. Stevenson
Richard H. Stoakley
David P. Stromberg
Stanley C. Stumbo
Jewel J. Suddath, Jr.
Patrick H. Sullivan
Richard N. Super
Jon E. Surratt
Robert C. Sutliff, Jr.
Dennis V. Taff
James R. Tague, Jr.
John H. Tait
Raynor A. K. Taylor
Robert G. Taylor
Thomas W. Taylor
Turner W. Taylor
William E. Taylor
Thomas H. Teal III
Nicholas B. Temple
Dennis H. Terry
John R. Terry
Thomas J. Terry, Jr.
Lewis H. Thames, Jr.
Christopher R. Thomas
Frank A. Thomas
Larry D. Thomas
William E. Thomas
Jeremiah V. Tierney, Jr.
Duane M. Tollaksen
David P. Topp
Robert L. Towle
William J. Townsend
Robert E. Traister
Joseph Tranchini
Michael F. Treacy
William M. Truesdell
Richard M. Treseder
Harry B. Trulli
Robert E. Tucker, Jr.
Jesus B. Tupaz
Ellis L. Turner
Donald K. Tyler
Peter R. Van Ness
Dennis H. Vied
Eduard L. vonFischer III
Henry vonKolnitz, Jr.
Joseph W. Wade, Jr.
Edward F. Wagner
Edward T. Walker, Jr.
Charles E. Wangeman, Jr.
Sibley L. Ward III
Larry W. Waterman
Gary N. Wax
Milton W. Weaver
Lowell E. Webb
George R. Weeks, Jr.
Arthur E. egner
Donald R. Wheeler
John F. Whelan, Jr.
Robert E. White
John E. Whitely, Jr.
Marshall R. Willenbucher
Alan K. Williams
Douglas A. Williams
Hugh T. Williams
John C. Williams
John D. Williams
Morris B. Williams
John M. Willsey
James R. Wilson
Thomas E. Wilson, Jr.
William H. Wilson
William O. Wilson
Thomas T. Wishart
Murray H. Witcher, Jr.
John S. Woodard
John D. Woodward
James T. Worthington
Hendon "O" Wright
Richard K. Young
William E. Zierden

The following-named midshipmen (Naval Academy) to be ensigns in the Supply Corps of the Navy, subject to the qualifications therefor as provided by law:

Champe O. Bachelder
Edwin H. Bailey
Leeland M. Bathrick
Kenneth A. Baum
Frank L. Bessenger, Jr.
Charles E. Bingemer
Joseph J. Bosco
Anthony C. Brennan
John O. Carlson
William E. Cartwright, Jr.
Jose Chavez
Thomas A. Ciccone, Jr.
Lawrence V. Covington
Bobby W. Cox
Robert M. DeMaio
Angelo E. DiFilippo
Robert A. Dropp
David G. Eason
Robert M. Eldridge
Robert B. Fraser
Donald S. Freeman, Jr.
Don J. Frost
Vance H. Fry
Melvin A. Fulkerson
John H. Fulton
Arthur C. Goldtrap, Jr.
George A. Gould III
Jon H. Graf
William L. Griffin
Gerald R. Hill
John R. Hunt
Charles R. Kiger
Lawrence W. Lavely
Spencer J. Leech, Jr.
Sotir Liakos
Terry K. Lingle
Henry J. Maguder, Jr.
George L. P. Mahelana
Joseph A. Matais
William J. Mitchell
Herbert J. A. Mossman
Robert E. Osmon
Malcolm C. Reeves II
John J. Santucci
Francis T. Shotton, Jr.
James N. Shughart
Charles J. Simmons
Robert W. Stewart
Donald E. Stone
John L. Swanson
Charles L. Terry
Alton K. Thompson
George W. Van Houten
Robert C. Walker
Harvey D. Weatherson

The following-named midshipmen (Naval Academy) to be ensigns in the Civil Engineer Corps of the Navy, subject to the qualifications therefor as provided by law:

Albert A. Arcuni
Richard D. Eber
Norman D. Falk
James M. Greenwald
Robert S. Jones
Robert J. Kennedy
Jay C. Metzler
Robert D. Parker
Michael D. Porter
Lucian B. Purinton II
Carl V. Ripa
Tracy C. Tucker
Kenneth A. Vaughn

The following-named (Naval Reserve Officers' Training Corps) to be ensigns in the line of the Navy, subject to the qualifications therefor as provided by law:

William S. Abbott
Bert L. Allen
David H. Allen
Larry D. Allen
Charles P. Allison, Jr.
Richard D. Alrick
Charles E. Anderson
Dean T. Anderson
James L. Anderson
James L. Anderson
James W. Anderson
Lewis G. Anderson
Donald S. Armes
Thomas M. Arrasmith III
Charles I. Ashbaugh
Roger T. Ashley
Merlin G. Askren
Charles B. Aycock
John P. Ayers
William L. Babcock
Daniel K. Bacon
Grover C. Bailey III
Joseph G. Baker
Robert F. Baker
Edward W. Bales
Richard A. Ball
James O. Ballard, Jr.
Roy G. Ballinger
Peter M. Banks
Richard Banks
Stephen W. Barber
Stephen A. Bard
John F. Barell
Thomas M. Barney
David W. Barns
Daniel B. Barnum
Charles T. Barr
Robert W. Barrett
Kenneth R. Barry
Albert L. Bartels
John D. Bartram
Thomas J. Bartsch
Marion E. Bartusek
William J. Baskin
James R. Bassett
George E. Bates, Jr.
John E. Baublitz
Roger A. Bauer
Christopher T. Bayley
Henry H. Beam
Elmer W. Beardshall, Jr.
Bruce A. Beebe
Stephen D. Beguin
Gary E. Bell
George A. Benedict
Henry M. Bennett
Leo Benson III
William D. Berberich
George W. Berg, Jr.
Gordon O. Berg
Walter E. Berger III
James W. Bergert
Ross Berkowitz
Robert C. Berreman
Raymond E. Berube, Jr.
Jerry D. Beveridge
Stephen J. Beyers
Gilbert W. Bickum
Charles B. Bidwell
Robert A. Billings
Donald Binder
Karl C. Bittenbender
Phillip R. Black
Richard W. Blacker
Peter B. Blackford
Richard L. Blanding
Richard J. Blankmeyer
Robert B. Bliss II
Dennis J. Blome
John L. Bloore
Gary J. Bobay
Michael W. Bodie
Robert J. Bogle
David M. Booher
Edwin R. Boquist
Alfred Bornemann
Joseph A. Bosco
Peter B. Bowman
John V. Bowser
Ronnie A. Bradley
John B. Brady
Roland E. Brandel
John R. Brandon
Donald R. Breckenridge
Shelby T. Brewer
Don J. Briselden
Ronald E. Broadwell
William R. Broadwell
Gary M. Broemser
Neal J. Broerman
Elbert L. Brown, Jr.
James M. Brown
Marion L. Brown
Estel E. Bruce
James W. Bruce, Jr.
Philip J. Brust
Timothy E. Bryan
Robert C. Bubeck
John R. Buchart
Peter R. Buenz
Jerry L. Bundy
John T. Burhoe
Robert C. Burnham

Daniel R. Burns
David F. Burns
Robert E. Burton
Thomas O. Bush
David E. Butler
Marvin B. Butler
George M. Cadwell, Jr.
Douglas M. Cain III
Thomas J. Callahan
Jack D. Calvert
Allan W. Cameron
Gerald B. Carleton
Frederick P. Carlson
William R. Carlson
Frederick T. Carter
John W. Cary
Calvin W. Case
Stephen H. Casey
Clark L. Chalifour
Jay W. Chapman
Stephen Charlesworth
Paul E. Chevalier
Joseph A. Clark
Theodore L. Clark
Glen E. Clover
Dana A. Coe
Horace G. Cofer
Richard E. Colburn
Wilmer G. Collier, Jr.
Michael L. Collins
Paul L. Collins, Jr.
Richard B. Collins, Jr.
Charles R. Comeau
William T. Conner, Jr.
James R. Connolly
Laurence D. Connor
Donald J. Coolican
Robert G. Costello
Thomas D. Coughlen
David E. Cowles
Lynn O. Cox
Paul L. Cox
Jay V. N. Crane
Charles Creutz
Dan Cromack
Ramsey L. Cronfel
Thomas E. Crowder
Daniel H. Crowley, Jr.
Glenn J. Cunningham
Grant R. Curtis
Francis E. Dahlem
Charles E. Dahlgren
Robert M. d'Alessio
David W. Damon
William L. Danforth
Joseph F. Daschbach
Robert T. David
Harry A. Davidson
Robert L. Davies
Francis J. Davis
John H. Davis
Vibert H. Davis
John P. Decker
Michael J. De Haemer
George D. Delp
Thomas A. Derr
Thomas W. Devine
David M. Diaz, Jr.
John P. Diefenderfer
Karl F. Dietsch
Martin C. Dillon
Theodore G. Dimitry
James J. Dineen
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Leroy M. Dorman
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Harry C. Draughon, Jr.
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Bruce R. Drury
Bartlett S. Dunbar
Joseph W. Du Rocher
Bruce M. Dutton
Frank S. Earl
Dean C. Eayre
William R. Eddins
Justin R. Edgerton
Dean W. Eighme
Frank T. Ellett
Hugh C. Embry
James A. Ericson
James C. Ervin, Jr.
John E. Evans
Frederick O. Fay
David B. Fell, Jr.
Walter P. Fethke, Jr.
Leroy W. Fetterman
Milton M. Finkelstein
Harold B. Finn III
Thomas J. Fitzgerald
Alan H. Flanigan
Michael J. Fleming
Robert W. Flesch
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James C. Flint
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Richard C. Fowler
James B. Fox III
Donald J. France
Robert A. Frank
William N. Franklin
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Harold M. Freiberg
Norman C. Frost, Jr.
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Francis P. Galletti
Earl W. Galloway
Thomas G. Gans
Glenn D. Gardner
Clair E. Garman
Bruce M. Garver
Ronald E. Gast
Joseph W. Gaut
Cyril M. G. Gaydos
Thomas E. Gehman
Terry L. Geiling
Lee J. Geronime
Val Gerstenschlager
Vernon W. Gerth, Jr.
William D. Gieseke
William G. Gingles
Joel E. Gingold
Wilford D. Godbold, Jr.
George R. Goetsch
Bradley W. Gordon
Daniel H. Gould
Gerald E. Gneckow
Bruce A. Gniffke
Roy S. Gohara
David Gonsalves
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Alan N. Grisemer
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Harry M. Hall, Jr.
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Jack T. Hankins
Kirby W. Hansen, Jr.
Jon G. Harder
Rex J. Hardister
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Erskine L. Harkey, Jr.
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Irving H. Hart III
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Samuel A. Haubold
Kenneth H. Hauck, Jr.
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Robert I. Hawkins
James W. Hayes
John B. Hays
Leonard C. Hays
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Wayne F. Heger
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"J" M. Herring
Gary A. Hershdorfer
John C. Hervey, Jr.
Herman F. Heuser
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Charles W. Hill, Jr.
James D. Hill
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Elliott P. Hinely
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Walter M. Holmes, Jr.
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Gregg W. Hornaday
Arthur R. Horsch
Jack O. Horton, Jr.
Leslie A. Horve
Robert G. Houghtlin, Jr.
Albert O. Howard, Jr.
Dan R. Huber
Peter J. Huber
Benjamin Huberman
Charles E. Hull
Frederick W. Hulvershorn
Joseph W. Hungate
George W. Hunt, Jr.
Raymond B. Hunter
Kent S. Huntzinger
William Husta
Bruce R. Hutchinson
Patrick H. Hutton
Charles H. Ide
Henry C. Ide
Fredric E. Ieuter
David L. Ingram
Gary S. Irons
Gerald W. Jackson
Robert T. Jackson III
John D. James
Robert E. Jeffreys
Dale A. Jenkins
Robert E. Jensen
John A. Jessop
Donn R. Johnson
Eugene H. Johnson, Jr.
Michael O. Johnson
Ronald B. Johnson
Ronald E. Johnson
James R. Johnston
Lawrence H. Johnston, Jr.
David H. Jones
Gordon S. Jones
Herbert W. Jones
Ronald L. Jones
Rodney E. Joost
Kenneth C. Juergens
Billy D. Justice
James N. Kaelin
Harold G. Kaeser
Robert C. Kahler
Garland H. Kanady, Jr.
Peter J. Karsten
Melvin E. M. K. Kau
Lawrence B. Kauffman
Ed Kaufmann
Daniel N. Keck
Jamieson C. Keister
William W. Keithline
Dermod Kelleher
John M. Kenney
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Kenneth P. King
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Fredric S. Knauer
Jack G. Knebel
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Larry D. Knippa
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Joseph J. Kohut
Norman C. Koon
Joseph N. Korte
Richard J. Kreassig
Michael A. Kubishen
Gail S. Kujawa
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Samuel D. Lane
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Michael S. Lanham
Phillip E. Lantz
Eugene F. Larkin, Jr.
Henry L. H. Lawrence
John C. Leader
Douglas B. Leathem
Ernest R. Leduc
Jerald K. Lee
Thomas C. R. Legare, Jr.
Richard M. Lehn
Sigitas Leimonas
Thomas F. Lettington
Jules I. Levine
Edwin Levy, Jr.
William F. Lineberger
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Robert F. McCracken
William P. McCracken
Robert P. McCullough
Brian J. McDowell
Mark McGargill
Ross McGlasson
Monte N. McGlathery
Robert A. McKean III
Kenneth W. McKinney
Franklin D. McKnight
Arthur T. McManus
James B. McNeill
David N. McQuiddy, Jr.
Hugh B. McSurely
William B. MacKinnon
Robert L. Maines
Norman R. Malmberg
Harry P. Malone
John P. Malone
James C. Manlove
John F. Manuel
Neil D. Markee
William J. Marker
James L. Markley
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Ronald R. Mason
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Roger W. Nelson
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Clifford C. Oberlander
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Thomas P. O'Brien
Patrick G. O'Connell
Robert T. O'Connell
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David D. Olds
William E. O'Neil
James B. Oney
Gene A. Onken
Ralph W. Ortengren, Jr.
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Edwin L. Silliman, Jr.
Henry J. Simon
John W. Skillman
Charles E. Slack III
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Edward H. Smith, Jr.
John F. Smith
Lawrence J. Smith
Norman H. Smith
Peter D. Smith
Peter H. Smith
Regis R. Smith
Robert W. Smith
Vance G. Smith
Alva P. Smithson
James B. Sortor
Paul T. Souval
Paul L. Sovey
Theodore M. Space
Dan T. Spencer, Jr.
Edmund B. Spencer
James P. Staes
Richard A. Stampfle, Jr.
Howard C. Stanley
William M. Stanley
Charles F. Stephan
Laurence A. Stephens
Rowland St. John Stevens II
Bill B. Stevenson
John Stites, Jr.
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Russell E. Stratton
David A. Strawbridge
James F. Strother
Edward J. Sturm
Harold F. Sturm, Jr.
Richard R. Sur
Elzie R. Surles
William G. Sutcliffe
John K. Sutor
David E. Swearengin
James M. Syck
Peter McC. Tackney
David N. Tait
James R. Tallman
Donald E. Taylor
Nelson D. Taylor
Paul D. Taylor
Ronald P. Teemley
Stanley M. Teigland
Grove N. Thomas
Clifford K. Thompson, Jr.
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Eric J. Thorgerson
Tommy R. Tickle
Daniel J. Tobin
Kiefer A. Tobin
Douglass S. Tolderlund
Ronald H. Tonkyro
Michael A. Toth
Orlin E. Trandahl
David C. Trimble
Donald L. Turner
Richard J. Ugoretz
Francis J. Uhrhane
Bruce T. Venner
Jerome C. Violette
Richard H. Vogels
John S. Von Kleeck, Jr.
Carl R. Walker
Richard L. Walker
Anthony L. Walsh, Jr.
Thomas B. Ward
Norval L. Wardle
Paul N. Ware
Donald E. Watkins
John W. Watson
Judson D. Watson, Jr.
Louis H. Watson
John H. Watts III
Thomas C. Way
Paul H. Webb
William J. Weinhardt
Gregory W. Wendholt
Peter K. W. Wert
Albert L. Wertheimer
John F. Westbrook
John P. Westerman
Joseph M. Whalen II
Thomas E. Whalen
Charles E. White
Lawrence W. White
Stuart C. White
Terence M. White
Thomas L. White, Jr.
Jay E. Wichmann
Thomas W. Widener
Robert D. Widergren
David S. Wiggins
Paul J. Wilbur
Wayland E. Wilcox
Marshall L. Willey
Jerry G. Williams
John R. Williams
Peter L. Williams
William A. Wilsen
Donald M. Wilson
James A. Wilson, Jr.
John O. Wilson
Richard VanN. Wilson
Robert M. Wiltgen
Thomas E. Wing
Lloyd H. Winter II
Thomas M. Wolf
Dan A. Woolley
Edmond V. Worley, Jr.
William F. Worley
Robert P. Wren
Charles N. Wright
Lanny A. Yeske
Ronald F. Zeilinger
Frank P. Zmorzenski
Martin Zwick

The following-named (Naval Reserve Officers' Training Corps) to be ensigns in the Supply Corps of the Navy, subject to the qualifications therefor as provided by law:

Richard G. Bentley
Dennis R. Bierbaum
Donald A. Bloxom
Paul R. Bosworth
Edward L. Cameron
Frank A. Coombs
Thomas L. Cordle, Jr.
Robert L. Crawford
William J. Deters
John R. Doggett III
Richard E. Dowell
Clyde O. Draughon, Jr.
James E. Eckelberger
Neil K. Emge
Frank R. Faistl
Shirley J. Francois
James G. Ganz
Ellsworth K. Gerritz
Sydney Goldsmith
Robert H. Gunn, Jr.
Henry W. D. Harris
Alan G. Hayes, Jr.
David L. Herndon
Paul L. Hodgdon
Wendell E. Koerner, Jr.
John G. McEachen
Clyde M. Marshall
Phillip D. Matthews
Daniel R. Mays
Alan J. Nissalke
Richard E. Nordgren
Robert A. Norman
Edward E. Pettis
Richard C. Raish
John C. Sargent
Frederic W. Schaen
John A. Schmidt
James F. Shedd
John D. Simcox
Andrew D. Smith
Charles T. Smith
Charles A. Sprenkle, Jr.
Paul E. Stallings
Philip W. Stichter
Rodger A. Swan
James H. Taylor
Warren G. Weber
Ronald C. Wolf

The following-named (Naval Reserve officers) selected as alternates to be lieutenants (junior grade) in the Dental Corps of the Navy and to be promoted to lieutenants when their line running mates are so promoted, subject to the qualifications therefor as provided by law:

Frank R. Barbieri
Alan B. Luke
John M. Scarola

The following-named (Naval Reserve officers) to be lieutenants (junior grade) in the Dental Corps of the Navy and to be promoted to lieutenants when their line running mates are so promoted, subject to the qualifications therefor as provided by law:

Keith W. Besley
Vincent Domenech, Jr.
George T. Eden
Ronald R. Eklind
Robert W. Farish
David L. Fishel
Cedric L. Hayden
Jack H. Keller
Richard G. Klug
Alfred D. Loizeaux
Thomas J. McShera
Thomas J. Pallasch
Thomas J. Proteau
Allen W. Schaffer
Jerome T. Scholl
Richard G. Shaffer
John A. Shattuck
Raymond C. Terhune

Donald W. McKinnon (Naval Reserve officer) to be a lieutenant in the Dental Corps of the Navy and to be promoted to a lieutenant commander when his line running mate is so promoted, subject to the qualifications therefor as provided by law.

Paul T. Kennedy (civilian college graduate) to be a permanent lieutenant (junior grade) and a temporary lieutenant in the Dental Corps of the Navy, subject to the qualifications therefor as provided by law.

The following-named (Naval Reserve officers) to be permanent lieutenants (junior grade) and temporary lieutenants in the Dental Corps of the Navy, subject to the qualifications therefor as provided by law:

Richard D. Bush
James A. Casper
Robert W. Corsello
David N. Firtell
Albert P. Hodges, Jr.
Richard S. Hulse
Myron R. Porter
Ray A. Walters
William J. Watson
Robert C. Westcott

The following-named (Naval Reserve officers) to be permanent lieutenants in the Dental Corps of the Navy, subject to the qualifications therefor as provided by law:

William A. Shackelford, Jr.
Everan C. Woodland, Jr.
James LeR. Workman

Donny A. Myrio (Naval Reserve officer) to be a permanent lieutenant and a temporary lieutenant commander in the Dental Corps of the Navy, subject to the qualifications therefor as provided by law.

Jack M. Witchen (civilian college graduate) to be a permanent lieutenant in the Medical Corps of the Navy, subject to the qualifications therefor as provided by law.

The following-named (civilian college graduates) to be permanent lieutenants (junior grades) and temporary lieutenants in the Medical Corps of the Navy, subject to the qualifications therefor as provided by law:

Joseph F. Krivda
Abbot G. Spaulding

The following-named (Naval Reserve officers) to be permanent lieutenants (junior grade) and temporary lieutenants in the Medical Corps of the Navy, subject to the qualifications therefor as provided by law:

Philip E. Bentley
Ivar W. Birkeland, Jr.
Paul L. Black
Robert C. Block
Donald V. Blower
Robert E. Chmielewski
Paul J. Corcoran
Peter A. Flynn
Maxwell W. Goodman
William F. J. Gordon
Barry McA. Green
Eugene J. Haag
Howard C. Harrison
Jay F. Lewis II
George E. McLaughlin
Martin Magi
Richard W. Martin
Norman G. Mireault
Carl N. Muto
Thomas M. Nichols
Kenneth K. Pavlik
Augustus B. Scott
Lee C. Sheppard, Jr.
Theodore N. Smith
Waller C. Tabb

The following-named (Naval Reserve officers) to be lieutenants in the Medical Corps of the Navy, subject to the qualifications therefor as provided by law:

Kenneth R. Dorner
Donald W. Hopping
Jimmy J. King
Italo C. Mazzarella
Dennis E. Mills
Hayden D. Palmer, Jr.
Jack A. Voight
Robert E. Walker

Merril M. Cooper (Naval Reserve officer), to be a permanent lieutenant and a temporary lieutenant commander in the Medical Corps of the Navy, subject to the qualifications therefor as provided by law.

Robert C. Kaiser, U.S. Navy retired officer, to be a permanent lieutenant in the line of the Navy pursuant to title 10, United States Code, section 1211.

James T. Schermerhorn, U.S. Navy officer revertee to be a permanent chief warrant officer (W–4) in the Navy, subject to the qualifications therefor as provided by law.

The following-named to be ensigns in the Navy, limited duty only, for temporary service, in the classification indicated, subject to qualifications therefore, as provided by law:

DECK

Cleve W. Albaugh
Michael B. Andrasko
Robert F. Beyrle
Baldwin B. Brown
George R. Capito
George N. Clark
Thomas M. Clayton, Jr.
Wiley E. Coffey, Jr.
Michael A. Colonna
Arthur J. Cote
Henry Dale
Joseph D. Dimartino
Harry C. Divers
Elden A. Ekberg
Richard E. Evers
Arthur R. Faller
Alan R. Field
Earl L. Foreman
Jalmar F. Forsman, Jr.
Kendall L. Frazier
Jack C. Furr
Thomas J. Gallagher
Frank Gordon
Richard J. Hadley
William D. Hamm
Melvin D. Harkness
Joseph J. Harnadek
Ernest R. Hazelwood
Francis J. Henderson
Donald M. Holland
Delbert H. Ireland
David K. Iwatsu
Kenneth S. Johnson
Melvin E. Johnson
John R. Jones
Oscar V. Kitzmiller
Carl A. Knapp
Clarence E. Kobylarczyk
Albert P. Koontz
Karl H. Kretschmar
Jeremiah J. Lehane, Jr.
Donald E. Lowther
John E. McCausland
Donald P. McEwan
Joe W. McGrew
Ronald R. Meardy
William A. J. Meek
George E. Meier
Joseph A. Murray, Jr.
James D. Mustard
Frank M. Richards
William E. Sanders
Sidney J. Sasser
Frank R. Smith
George R. Smith
Lowell E. Smith
Mark G. Snyder
Duncan McL. Steedley
Wesley L. Steelhead
James J. Storms
Alvin A. Strunk
Jerry I. Taylor
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Joseph E. Ziolko

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Roderic C. Bazzel
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Harold J. Bentzley
Donald A. Deore
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Joseph W. Fieldeldey, Jr.
William S. Fortenberry
John F. Haggerty
Clifford A. Hart
Edward G. Haskell
John W. Havery
Marlon Hendrix
Karl C. Kingsbury
John F. Lachnicht
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William A. Mallari
Elmer L. McCormack
John A. Moore
Francis E. Mosher
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James F. Peters, Jr.
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Gilbert C. Spurr
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Marcellus P. Steffens
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Lawrence J. Tritz
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Stanley E. Wonnell
Leslie E. Wood
Philip J. Woods

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Dale A. Yeager
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Leon W. Kerner
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Fon C. McGinnis, Jr.
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Kenneth P. Tate
John J. Tosloskie
Nathan L. Trapp
Ramon Vasques
William H. Walker
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William F. Bonsky
Roy D. Buell
William T. Burnham
Albert M. Byrnes
Geoffrey G. Cadby, Jr.
Charles R. Cassaday
John P. Cerul, Jr.
William E. Clark
William M. Clark
James I. Claunch
William E. Clifton
Donald L. Cline
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George R. Colkitt, Jr.
Lewis W. Conner
Jerald A. Copple
Harold W. Cornelius
Herbert W. Cowan
Cecil E. Decker
Robert F. Depperschmidt
William H. Dewitt
Malcon C. Dion
Alfred B. Dunham
Orvin E. Eckerman
Frederick M. Ewalt
Norman C. Ferguson
George D. Fisher
Thomas A. Fountain
Frederick D. Foy
Richard E. Fuller
Joseph W. Furlong
Joe R. Garrison
Harold V. Gattis
Eugene D. Gerber
Robert S. Gerity
Lynn E. Gessner
Glen R. Grosenbach
Harry W. Hampson
Aubrie D. Hess
Charles W. Holeman
Charles D. Jones
Ejnar O. Jorgensen
Alfred C. Katz
Fred P. Kaullen
Robert V. Kephart
Alfred C. Klingbiel
John R. Knoll
Calvin E. Lain
Bruce E. Lanning
Joseph R. L. Letourneau
Raymond D. Levesque
James E. Lucas
James D. Mabry
Ronald J. McAfee
Ollie B. McCormick
Michael G. Means
Walter B. Moore
Morris Morgan
Albert Mrazik
Edward J. Mussman
Victor L. Nelson
Harlan W. Novak
Alban Pampel
Robert L. Paris
William C. Payne
Merrill D. Pippen
Joseph S. Quinn
Paul E. Raftis
James H. Scott
George E. Smith, Jr.
Vernon A. Smith
Norman W. Spang
Eugene A. Stauch
Richard B. Strysick
Bruce R. Talbot
William D. Thumser
Frank F. Trudeau
James D. Ussery
Otis E. VanHouten
Frank V. Weltner
Wayne H. Wheeler
Emory E. Wilcox
Percy W. Willey, Jr.
Arthur D. Winkle, Jr.
Colin G. Winters
Loren Worley
Guy M. Youngberg
William L. Zietzke

CRYPTOLOGY

Bruce Akers
George R. Allen
Clyde L. Channel
Doyle L. Davis
Paul K. Deehan
Edward D. Dettloff
John A. Fellows
Robert L. Glotfelty
James C. Hargrove
Allison F. Himmerlich
Jack C. Houck
Richard H. Lee
Richard L. Loden
Norman L. Martel
James P. McGaughey
Howard W. Naylor
Richard C. Neapolitan
Robert C. Nesbitt, Jr.
Irwin G. Newman
Lawrence Nice
Donald L. Olson
Albert C. Otto, Jr.
Thomas A. Ouellette
Tommie J. Owen

Thomas M. Presley
William V. Schultz
Aaron E. Swilley
Franklin Wertman, Jr.

AVIATION OPERATIONS

Stanley E. Allen
Raymond H. Bisbing
Powers E. Branham
Raymond Bryant, Jr.
Ronald F. Bushouer
Melvin D. Clemons
Harvey D. Gibson
Bobby S. Heetich
Aubrey H. Jordan
William P. Madigan
Jacob R. Mehelich
Robert L. Millar
Thomas J. Peters
Kenneth E. Rolph
Raymond J. Scent
Donald A. Tilton
Charles S. Virden

PHOTOGRAPHY

Ned D. Bell
Paul B. Dickson
Robert G. Growe
Cornelius J. Hagerty, Jr.
William P. Hayman
Melvin M. McClure
John H. McLean
Louis F. Perrinello
Vernon C. Tully, Jr.
Robert H. Watt
William W. Wheeler, Jr.
William J. Wyse

AEROLOGY

Roy L. Eshom
Earl F. Gustafson
Floyd E. Horn, Jr.
James W. King
Martin J. Nemcosky
Charles Seelen
Stanley G. Snyder
Donald H. White

AVIATION ORDNANCE

James W. Adams
Verlin M. Arnett
James E. Bratton
Theodore Canup
Carl H. Clawson, Jr.
Robert L. Crow
Arthur W. Dahlgren
John P. Devenny, Jr.
Neal D. Gieske
Otto D. Hafer
Emerson J. Hughes, Jr.
Lawrence F. Jennings
Patrick V. Kear
Walter H. Mahany
Donald L. Meritt
Edward J. Patton
Andrew F. Reno
Ray R. Schoonover
Oliver P. Shattuck
Julius T. Shy
Loren O. Sorenson

AVIATION ELECTRONICS

Willis H. Alexander, Jr.
Antoine J. A. Arnaud
Theodore H. Beumer
John T. Boarman
David B. Boney
Donald E. Bradt
James S. Brooks
Robert E. Browning
William J. Bryant
Lauren D. Burke
Charles D. Burkhard
William C. Burnett
Henry F. Byrnes, Jr.
Francis O. Caron
Michael F. Charters
Eldred E. Chenoweth
Billy Chesnutt
William T. Clark
William L. Cowan
Allen J. Derr
James R. Donahue
Peter D. Edgar
Alvin L. Eller
Robert O. Elliott
James E. Endsley
William V. Fleitz, Jr.
John W. Fluke
John A. Frasher
William Fries
Joe R. Gallegos
Richard E. Garner
William A. Geiger
Benjamin S. Hall
Richard T. Hamilton
James L. Hardgrave
Edward K. Harmon
Carmon W. Hatley
Richard T. Healey
Charles F. Heffernan
Vaughn E. Holt
Jack D. Hudson
Gerald Jacobson
Aaron C. James
Robert A. Johnston
Robert C. Keating
Everett L. Konewko
Charles S. Korchek
Roy F. Lambertson
Clifford W. Lebrecht
Raymond D. Lowman
Waymond Mansell
Paul E. McCleary
Dewayne M. McGaa
George G. McKenney, Jr.
Thomas E. McLaughlin
Herman W. Moller
James E. Moore
Richard W. Neergaard
James A. Padgett
Donald L. Peterson
Ernest K. Peterson
Charles D. Redman
Eugene O. Rheinhart
Lesley T. Robinson
William R. Russell
Lester E. Ryan
John L. Sawyer
Robert P. Schneider
Willard E. Schultz
Warren W. Seekell
Paul E. Seiden
John R. Shawver
Roger R. Snodgrass
Charles H. Snow, Jr.
Francis E. Sullivan
James C. Talley, Jr.
John F. Taylor
Eldon L. Thornburgh
Theodore Wagner
Robert B. Weldon, Jr.
Clarence R. Williams
Newton H. Wilson, Jr.
Albert B. Zari

AVIATION MAINTENANCE

Robert J. Albers
Robert A. Allwine
John P. Anthony, Jr.
Robert E. Armbuster
Donald E. Batti
James T. Berry
Alfred E. Bradford
Erby D. Bradford
Edward W. Brooks
Edward E. Chelton
John A. Coffey
Robert O. Day
Maurice C. Dufore
Conrad S. Dyke
Russell D. Ellis
Jose Enriquez
Neal C. Evans
Norman L. Farrell
Harvey M. Fernandez
Russell F. Germain
Herbert T. Grose
Leon W. Grzech
Phillip E. Haas
Martin F. Haldiman
Roy E. Hansen
Edward P. Hazard
Hubert L. Hoffman
Verne H. Irving
Herbert W. Johnson
Hugh S. Jones
John R. Kropac
Gerald Lafrance
Donald J. McDougall
Robert D. McFarlane
Jackie W. Meadows
James L. Moore, Jr.
Howard A. Neiman
Herschel C. Nichols
Keith A. Nichols
Leo Pich
Stanley Pochordo
Charles W. Powers
Richard A. Renning
Charles L. Rowan
Harold W. Sanford
James F. Schultz
Domenick A. Spinelli, Jr.
Carl U. Swails
Rolland R. Turner
Luther T. Veazey
James M. Walls
Arnold E. Witzke
James B. Wolfe

SUPPLY CORPS

Carl E. Alexander
Raymond J. Arsenault
Jack H. Bennett
Norman E. Bernier
Deforrest Borders, Jr.
Arnold R. Bowman
Verle E. Bryant
Harvey G. Burns
Andrew J. Burton, Jr.
James J. Byrd
Ralph Conrad
Jean L. Countryman
Joseph M. Cox
Morris D. Culbertson
Donald D. Cullen
Robert A. Dickinson
Thomas D. Dolly
Palmer L. Drachenberg
Forrest E. Durnell
Charles L. Fenwick
William A. Ferrell
Donald E. Forquer
Charles W. Freeman
Lawrence G. Gau
William E. Glisson
Frank N. Grayson
John D. Groom
Richard G. Guenther
James E. Hagans
Robert Harrison
James M. Heider, Jr.
Harold J. Henninger
Lester B. Hillen
Clifford J. Holmes
Ralph N. Howard, Jr.
Robert L. Howard, Jr.
Roy L. Huddleston
Herbert K. Huneycutt
John A. Hutto
Eugene F. Ionadi
John R. Jenkins
Edward M. Johnson, Jr.
John A. Johnson, Jr.
Richard W. Jones
George W. Kramer
Joseph Kraus
Vincent Lanza
Arthur B. Larsen
Arthur R. Leduc
Victor P. Maness
Robert K. Marshall
Harold J. McCarthy
John W. McCartney
Charles P. Meys
Douglas L. Michi
William M. Miles
Jack K. Mullen
John P. O'Donnell
William W. Olin
Earl A. Olson
Leroy J. Orr
Donald L. Ostergard
Arthur E. Overfelt
James C. Owens
Anthony E. Parish
Alvin L. Paulson
Theodore H. Prehodka
Billy J. Roland
Edward A. Ross
Spencer Rush
Raymond L. Rutter
John E. Schuerman
Harlan L. Simeon
Billy G. Smith
Thomas W. Smith
James A. Sprague
William T. Stinson
John W. Sumner, Jr.
Nicholas W. Tarr
Robert L. Turner
Harry K. VanDoren
James R. Wachutka
Paul M. Wethington
Raymond C. Widowski
Walter W. Wilkins, Jr.

CIVIL ENGINEER CORPS

John J. Baltzer
Norman D. Criss
Paul L. Gleman
Thomas E. Hale
Leslie L. Hines
Edward H. Hubel
Marion W. Lubich
Robert G. McManus
Francis M. Oxley

The following-named to be lieutenants (junior grade) in the Navy, limited duty only, for temporary service, in the classification indicated, subject to qualifications therefor as provided by law:

AVIATION OPERATIONS

Lewis D. Keller
Richard R. Leaverton

PHOTOGRAPHY

Clyde T. Kirkman

AEROLOGY

Neil F. O'Connor

AVIATION ELECTRONICS

William G. Dugan
James F. Southerland

AVIATION MAINTENANCE

Eugene P. Moccia

The following-named selected as alternates to be ensigns in the Navy, limited duty only, for temporary service, in the classification indicated subject to qualifications therefor as provided by law:

DECK

Harlan L. Barnes
Robert F. Cameron
Linnaeus T. Callaway

OPERATIONS

Seifert T. Sperry

ORDNANCE SURFACE

Vito Stanley
Douglas B. Tipton

ORDNANCE CONTROL

Jackie D. Harris
Elwood G. Ellis

ORDNANCE UNDERWATER

Hardin C. Story

ADMINISTRATION

Francis E. Bittner
George W. Pratt
Donald A. Harker

ENGINEERING

Lilbourne E. Draper
John A. Dankievitch
Robert A. Norman
Leo N. Remenak, Jr.
Robert F. Suggs
Richard E. Teeter

HULL

Donald C. Prater
Ira O. McGilbery

ELECTRICIAN

Carl K. Hoffman
Robert E. Thompson
Howard E. Sherman

ELECTRONICS

Louis F. Standard
Clarence W. Rupert
Lyle L. Slagg
Harold L. Meeker
Edward F. Laukaitis

CRYPTOLOGY

Thomas J. Clements

AVIATION OPERATIONS

William J. Porter

PHOTOGRAPHY

Charles L. Stoltz

AEROLOGY

Edwin V. Trefry

AVIATION ORDNANCE

Lloyd Bowman

AVIATION ELECTRONICS

Raymond F. Lanouette
Walter L. McCoy, Jr.
Jack M. Hemry
Donald E. Huntley

AVIATION MAINTENANCE

William C. Purcell
Russell E. Heyneman

SUPPLY CORPS

Herbert H. Vieweg
Eugene M. Gallagher
Russell R. Cawley
Alfred C. Zirnhelt

The following named (Naval Reserve Officers Training Corps) for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Donald A. Albright
Walter P. Aleksic
Joseph H. Alexander
Clifford H. Anderson
Gary H. Anderson
John E. Anderson
George W. P. Atkins, Jr.
Earl R. Babbie
James A. Bartel
Murray Bass, Jr.
Thomas W. Baxter
Richard P. L. Bland
Ralph A. Blythe, Jr.
Lawrence J. Boller
Samuel W. Bowlby
James H. Bowman
Donald L. Bradbury
Martin L. Brandtner
Robert A. Braun
James V. Bronson
Carl E. Brooks, Jr.
John H. Brown
Robert J .Brown
James P. Burns III
Larry E. Byers
Robert B. Carl
Robert A. Carlson
Louis A. Cassel
Alfred F. Cazares

Roger L. Clawson
Richard F. Clements
Bruce A. Cochran
Wiliam Collins
Raymond C. Conklin
Frederick A. Conrad
George E. Core
Robert S. Coulter
Donald C. Cox
James H. Crampton
John L. Culver
Michael H. Curley
Brian P. Davis
Ernest J. Desautels
George O. Deshler
Michael G. Dickerson
Bonneau H. Dickson, Jr.
Chris G. Dokos, Jr.
Nathan C. Douthit
Leiland M. Duke, Jr.
Ronald J. Dusse
George D. Eggleston
Arthur C. Elgin, Jr.
David J. Elpers
George H. Enochs
Edward A. Eppinger
Louis F. Erb
Charles E. Farnsworth
Richard A. Fehnel
Joseph Y. Feitel, Jr.
Ken W. Fesler
John R. Filson
John G. Forti
Karl A .Foster
Richard C. Friedl
Gerald E. Friend
David J. Friis
Beverly B. Fuqua
Robert T. Gale
Peter F. Gamer
Robert B. Gann
Henry A. Germer, Jr.
Joel W. Gibbons III
John P. Gill
Jan R. Gilbert
Douglas Glover
Edward C. Goldhill, Jr.
George W. Goodwyn, Jr.
Harold C. Gosnell, Jr.
Herbert A. Grant, Jr.
John A. Gregg
William C. Hadley
Henry W. Harris III
Maynard A. Hatfield
George T. Hawley
Thomas C. Heil, Jr.
Roger P. Heinisch
Earl W. Hildebrandt
Larie W. Holmes
Harvard V. Hopkins, Jr.
Eugene E. Hracho
Gerald C. Huggin
Richard W. Hughes
Ed Varner Hungerford III
Lajon R. Hutton
John T. Jerbasi
James A. Kealey
Gordon L. Kelly
Steven J. Kemp
Robert J. Kew
Dennis G. King
Ned B. Kisner
Donald M. Koenig
Daniel J. Kraft
James W. Kreider
Conrad W. Lantz
Kenneth P. Larson
Vincent R. Lee
Neil R. Lincoln
Terry K. Lindquist
Thomas F. Little
Lawrence A. Luther
Joseph A. Lutheran
William J. Lytle
Lawrence G. Martin
William R. Martin
Tom E. Massey
Ernest W. McAfee, Jr.
William J. McCallum
William A. McIntyre III
David M. McKenney
Clarence I. Meeks III
Larry G. Mitchell
James L. Moore
Thomas J. Moran
Robert F. Morgan
Gerald R. Mueller
Richard J. Murphy
Bruce K. Nestande
Joseph C. Olson III
Lynn F. Oxenreider
Robert M. Pennell
James L. Pierce
George E. Pynchon
Ronald E. Reagan
William H. Reams
John H. Reimer, Jr.
Richard D. Roark
George K. Robinson, Jr.
Lance R. Robinson
James M. Ross
James B. Ruyle
Charles L. Sale
Carl R. Sawyer, Jr.
Lawrence E. Seaman, Jr.
Walter C. Shaw
Vincent M. Smith
Robert J. Smolenski
Richard C. Sneed
Howard M. Snook
Jacque E. Sohm
John E. Solomon, Jr.
Wesley F. Spence
Louis M. Spevetz
Richard M. Stacy
Anthony R. Strickland
Phil E. Stuart
Roderick E. Swetman
Laurence A. Taylor
Frederick S. Tener, Jr.
John B. Terpak
James N. Thomas
James G. Thompson
Richard K. Thompson
John H. Todd
Howard P. Troutman
Rudolph G. Tschida
Karl A. Tunberg
Carlon N. Turner
Paul J. Van Wert
Jean P. C. Vaughan
Richard F. Wallace
Jack H. Watson, Jr.
John R. Watson
Steven S. Webster
Arthur D. Weren
George M. Wilkins
Paul R. Williams
Herbert H. Wood
Harry C. Young, Jr.

The following named (U.S. Military Academy graduates) for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Alfred D. Bailey
Edward O. Bierman
John D. Dobak
Theodore R. Dunn
Berlis F. Ennis
Robert P. Koontz
Ronald S. Smith
James J. Stewart

The following named (meritorious noncommissioned officer) for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Kenneth N. Jones.

The following named (platoon leaders class) for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Thomas R. Betz
Peter H. Cathell
Vincent S. Coll

The following named (Naval Academy graduates) for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Steve R. Balash, Jr.
Duane C. Beck
Charles N. Bikakis
Alfred H. Bivens
James W. Bower
Claudius J. Britell
Richard S. Burgess
Bernard J. Cauley
Francis S. Clark
David H. Cutcomb
Donnie L. Darrow
David G. Derbes
Gary T. Dilweg
Phillip E. Gardner
Paul B. Gaynor
Merle W. Gorman
Wayne G. Griffin
Warren G. Hahn
Lynn A. Hale
Chester E. Hanson
Robert R. Harlan
Richard I. Harris
Frank S. Hayes
Robert S. Holman
Carl R. Ingebretsen
Gerald M. Johnson
William M. Keys
Joe J. Kirkpatrick
Frank P. Kolbe, Jr.
Charles L. Lynch
David Mayers, Jr.
Samuel K. McKee III
Paul A. McLaughlin
Robert S. Meck
Allen H. Miller
Jay A. Newbern
Alan L. Orr
David B. Prue
En Sue Paung Puaa
David A. Quinlan
Tom V. Richardson
Karl Rippelmeyer
William A. Roche
Torrence W. Rogers
George C. Ross
Robert A. Ross
Norman W. Sammis
James R. Shea
Gid B. Smith
Thomas J. Solak
Robert J. Spolyar
William C. Stensland
Robert H. Strand
Harold D. Sullivan
Warren E. Sweetser III
Edward H. Szweda, Jr.
Joseph R. Tenney
Martin N. Tull
Allen P. Whitaker
Justin H. Wickens

The following named officers of the Marine Corps for permanent appointment to the grade of first lieutenant, subject to the qualifications therefor as provided by law:

Hugh F. Anderson, Jr.
Ronald C. Andreas
Louis J. Black
Marine V. Rosewaine
Joseph C. Baldwin
Norman G. Becker, Jr.
Harry Black
Charles W. Brown
Samuel P. Brutcher
Franklin D. Bynum
Robert L. Cantrell
David H. Carrigan
Alfred I. Clayes, Jr.
Richard P. Connolly
John G. Cooper
Charles L. Cronkrite
James P. Dawson
Gary A. Davis
Roger E. Deitrick
Patrick L. Derieg
John J. Dolan
Glenn H. Downing
Cleveland L. Dunning
Wallace H. Ekholm, Jr.
Harry H. Gast, Jr.
Thomas J. Gligorea
Robert B. Goodman
Donnie M. Griffay
Everard E. Hatch
Edward L. Howe, Jr.
Jesse N. Keathley
Gerald G. Kemp
John M. Kretsinger
Stanley P. Krueger
Phillip B. Layman
Dale E. Lewis
John L. H. Mason, Jr.
John E. Morgan
Terrence P. O'Mahoney
Ralph B. Orey
Jack H. Pulcheon
John T. Radich
William H. Ridings
Benny D. Rinehart
Roland W. Root
Edwin Sahaydak
Marvin E. Schwaninger
Clyde C. Simon
Barry F. Skinner
James L. Skinner
Dale J. Uhlenhake
William K. Wehrell, Jr.
Lawrence A. Whipple

The following-named officers of the Marine Corps for temporary appointment to the grade of first lieutenant, subject to the qualifications therefor as provided by law:

Edward L. Adner
Russell T. Antonille
John P. Atherton
John M. Barberi
David M. Busse
Jean P. Cole
Frank J. Cox, Jr.
Thomas J. Dalzell
David S. Drum
Charles R. Dunlap
Herbert B. East
George P. Edgell
Donald Festa
Robert G. Flynn
Mark T. Fulmer
Michael S. Gering
William Gilfillan III
Robert C. Gregor
William O. Hambler
Leo J. Hayward
Donald F. Herman
Bobby N. Jackson
Donald W. Johnson
Gregory W. Jordan
Charles T. Knight
John Koyiades
Robert W. Lafon
Michael W. Laing
Gerald E. MacDonald
Albert J. McCarthy, Jr.
John C. McDonald
Michael I. Opean
Milton C. Otto
Allen B. Ray
Stephen M. Rohr
James D. Scrivner
James P. Sheehan
Harry L. Solter, Jr.
Arthur D. Thatcher, Jr.
Richard E. Theer
Michael L. Tuggle
Lewis D. Vogler
Lauritz W. Young

NATIONAL SCIENCE FOUNDATION

Malcolm M. Willey, of Minnesota, to be a member of the National Science Board, National Science Foundation, for the remainder of the term expiring May 10, 1964, vice T. Keith Glennan, resigned.

HOUSE OF REPRESENTATIVES

WEDNESDAY, APRIL 6, 1960

The House met at 12 o'clock noon.

The Chaplain, Rev. Bernard Braskamp, D.D., offered the following prayer:

Hebrews 11: 6: *Without faith it is impossible to please God.*

Almighty God, whose resources of divine wisdom are inexhaustible and abundantly adequate for all our needs, may this moment of prayer be one of earnest desire to know Thy truth and of sincere determination to do Thy will.

Grant that the deep and desperate things, which so frequently baffle us and dim our way, may never tempt us to yield to doubt and despair.

Help us to believe that we can conquer all those devastating moods and attitudes, which assail our minds and hearts, by cultivating and possessing a faith that is strong and radiant.

May we be eager to keep inviolate the faith of our God-fearing fathers and may the spiritual ideals upon which they built our Republic continue to be the guiding principles which we are seeking to enthrone in our own individual and national life.

Hear us in the name of the Prince of Peace. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

WATERSHED PROTECTION AND FLOOD PREVENTION

The SPEAKER. The Chair lays before the House the following communication.

The Clerk read as follows:

HOUSE OF REPRESENTATIVES, U.S.,
COMMITTEE ON AGRICULTURE,
Washington, D.C., April 5, 1960.

Hon. SAM RAYBURN,
The Speaker, U.S. House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the provisions of section 2 of the Watershed Protection and Flood Prevention Act, as amended, the Committee on Agriculture has today considered the work plans transmitted to you by Executive Communication No. 2042 and