COPY

MEMORANDUM

April 23, 1965

Keep this in file so it can be found at the proper moment! J

TO: Dave Gartner
Ted Van Dyk
Francis Kelly
Bill Connell
John Stewart ✓
John Rielly
Norman Sherman
Julie Cahn
Bob Jensen
Neal Peterson

FROM: Ronald P. Stinnett

RE: House Member Assignments for the Vice President

Attached is a list of the House members the Vice President has been assigned for purposes of moving legislation in the House, "nose counting," and other legislative relations.

The Vice President wants each of you to look over this list and call me about any four or five members with whom you already have contact. If you do not have any contacts with four or five members on this list, I will assign some to you for "developing friends."

You will be responsible for contacting your assigned four or five members at a given notice. We need this for instant "nose counting" and other purposes as determined by the President.

Please call me by Monday night concerning your assignment.

HOUSE MEMBER ASSIGNMENTS

IOWA:

1. John Schmidhauser
2. John Culver
3. Bert Bandstra
4. Neal Smith
5. Stanley Griegg
6. John Hansen

WISCONSIN:

7. Lynn Stalbaum
8. Robert Kastenmeier
9. Clement Zablocki
10. Henry Reuss
11. John Race

MICHIGAN:

12. John Conyers
13. Weston Vivian
14. Paul Todd
15. John Mackie
16. Raymond Clevenger
17. James O'Hara
18. Charles Diggs, Jr.
19. Lucien Nedzi
20. William Ford
21. John Dingell
22. Martha Griffiths
23. Billie Farnum
24.

INDIANA:

24. Ray Madden
25. John Brademas
26. J. Edward Roush
27. Winfield Denton
28. Lee Hamilton
29. Andrew Jacobs

MINNESOTA:

30. Joseph Karth
31. Donald Fraser
32. Alec Olsen
33. John Blatnik

NORTH DAKOTA:

34. Rolland Redlin

NEBRASKA:

35. Clair Callan

COLORADO:

36. Byron Rogers
37. Roy McVicker
38. Frank Evans
39. Wayne Aspinall

WYOMING:

40. Teno Roncalio

MONTANA:

41. Arnold Olsen

UTAH:

42. David King

CLASS OF SERVICE

This is a fast message unless its deferred character is indicated by the proper symbol.

WESTERN UNION

TELEGRAM

W. P. MARSHALL, PRESIDENT

SF-1201 (4-60)

SYMBOLS

DL = Day Letter

NL = Night Letter

LT = International Letter Telegram

The filing time shown in the date line on domestic telegrams is LOCAL TIME at point of origin. Time of receipt is LOCAL TIME at point of destination

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VICE PRESIDENT HUBERT H HUMPHREY

WHITE HOUSE WASHDC

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RECEIVED APR 1 1965 THE VICE PRESIDENT 1965 APR 1 PM 2 07

YOU ARE REFERRED TO MY TELEGRAM OF MARCH 29TH, IN ANSWER TO YOUR LETTER OF THE 26TH, RELATIVE TO THE SO CALLED "VOTER RIGHTS BILL". YOU WILL NOTE THAT I SET FORTH OUR ADMINISTRATION'S POSITION THEREIN, QUOTE "WE FEEL STRONGLY THAT THIS MATTER SHOULD BE LEFT TO THE STATES AND THAT LITERACY TESTS ARE ESSENTIAL". I FURTHER STATED THAT JUDGE PEREZ WAS AUTHORIZED TO APPEAR AND REPRESENT OUR STATE "IN THIS POSITION". ANY STATEMENTS MADE BY JUDGE PEREZ BEYOND THIS WERE HIS OWN, AND WERE NOT THE OFFICIAL REPRESENTATIONS OF OUR STATE. IT SHOULD BE CLEARLY UNDERSTOOD THAT WE DO NOT QUESTION THE PATRIOTISM OF THOSE IN OUR FEDERAL GOVERNMENT WHO ARE ADVOCATING THIS LEGISLATION. IT IS REQUESTED THAT THIS TELEGRAM BE MADE A PART OF THE RECORD

CLASS OF SERVICE

This is a fast message unless its deferred character is indicated by the proper symbol.

WESTERN UNION

TELEGRAM

W. P. MARSHALL, PRESIDENT

SF-1201 (4-60)

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1965 APR 1 PM 2 06

OF THE HEARINGS HELD BY YOUR COMMITTEE. RESPECTFULLY

JOHN J MCKEITHEN GOVERNOR OF LOUISIANA

(08).

COPY

April 27, 1965

Memorandum

TO: The Vice President

FROM: John Stewart

Concerning the meeting this afternoon over the poll tax amendment, the following factors seem to be relevant:

1. Democratic leadership should address itself to this basic question: Will the abolition of the poll tax sacrifice Senator Dirkson's support for cloture if cloture is necessary to stop a Southern filibuster?

   To the best of my knowledge this question has not been faced by Senator Mansfield. It is the judgment of the liberal Senators that Senator Dirkson would not be able politically to withold his support for cloture simply on the basis of the poll tax amendment. It is this basic political judgment which has emboldened the civil rights labor forces to stand firm on the amendment abolishing the poll tax.

2. The civil rights labor forces are to accept a proviso that would provide for expediting the poll tax section in the Federal courts in order to get a prompt decision and that would specify procedures for collecting the poll tax if the Supreme Court would declare the Congressional action abolishing it unconstitutional.

3. The liberal senators are also fearful that Dirkson really wants to reopen the drafting process as a means of rectifying certain amendments which the liberals carry in the Judiciary Committee. For example, making it unnecessary for a prospective voter to first apply to state registrars. There is some feeling that Dirkson has initiated the present discussions as a means of opening the entire bill for negotiation once again.

This the liberals are determined to avoid.

4. Senator Ted Kennedy now has in his possession a letter from Dr. Paul Fruend of Harvard Law School supporting the constitutionality of the poll tax provision as it now stands. In other words, the debate would remain inconclusive on the constitutionality of the present language.

5. No one seems to know the degree of Presidential involvement in the present situation. In any event, the liberal Senators seem determined to stand fast on their position with the exception of agreeing to the proviso as outlined above. The exploration of some such middle ground position would appear to be worthwhile.

LEADERSHIP CONFERENCE ON CIVIL RIGHTS

ROY WILKINS, Chairman
ARNOLD ARONSON, Secretary
JOSEPH L. RAUH, JR., Counsel
CLARENCE M. MITCHELL, Legislative Chairman
MARVIN CAPLAN, Director Washington Office

2027 Mass. Ave., N.W., Washington, D. C. 20036 phone **234-4722** • New York address: 20 West 40th St. New York 18, phone BRyant 9-1400

TO: Cooperating Organizations

FROM: Arnold Aronson, Secretary

A Supplement to MEMO No. 59
April 26, 1965

KENNEDY SPEECH: WHY THE POLL TAX MUST BE BANNED

Here are Senator Edward Kennedy's speech on poll taxes and the President's speech on voting rights. Both are enclosures for MEMO No. 59.

In the few days since the first part of this MEMO was sent out, it has become increasingly clear that one of the dangers confronting the voting rights act is a strong campaign to knock out of the Senate and House versions of the bill the provision liberals were able to add in committee that would ban a poll tax in state and local elections. This symbol of harassment and repression must be destroyed. In all your approaches to Senators and Congressmen, urge them to fight to keep in the bill the provision that would eliminate the tax. The Kennedy speech can help you and your members by providing a comprehensive argument for eliminating all poll tax requirements.

Try to have excerpts from the speech reprinted in your local papers. Local editors can make good use of it in preparing editorials on the bill. If you can use additional copies let us know and we will send them to you.

As for the President's moving address, additional copies may be ordered from this office at $10 a hundred.

Time's short. We must get to work right now.

Enclosures (2)

COOPERATING ORGANIZATIONS

A. M. E. ZION CHURCH
ALPHA KAPPA ALPHA SORORITY
ALPHA PHI ALPHA FRATERNITY
AMALGAMATED CLOTHING WORKERS OF AMERICA
AMALGAMATED MEAT CUTTERS AND BUTCHER WORKMEN
AMERICAN CIVIL LIBERTIES UNION
AMERICAN ETHICAL UNION
AFL-CIO
AMERICAN JEWISH COMMITTEE
AMERICAN JEWISH CONGRESS
AMERICAN NEWSPAPER GUILD
AMERICAN VETERANS COMMITTEE
AMERICANS FOR DEMOCRATIC ACTION
ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH
B'NAI B'RITH WOMEN
BROTHERHOOD OF SLEEPING CAR PORTERS
CATHOLIC INTERRACIAL COUNCIL
CHRISTIAN FAMILY MOVEMENT
CHRISTIAN METHODIST EPISCOPAL CHURCH
CHURCH OF THE BRETHREN SERVICE COMMISSION
CITIZENS LOBBY FOR FREEDOM & FAIR PLAY
COLLEGE YCS NATIONAL STAFF
CONGRESS OF RACIAL EQUALITY
COUNCIL FOR CHRISTIAN SOCIAL ACTION — UNITED CHURCH OF CHRIST
DELTA SIGMA THETA SORORITY
EPISCOPAL SOCIETY FOR CULTURAL AND RACIAL UNITY
FRONTIERS INTERNATIONAL
HADASSAH
HOTEL, RESTAURANT EMPLOYEES & BARTENDERS INTERNATIONAL UNION
IMPROVED BENEVOLENT & PROTECTIVE ORDER OF ELKS OF THE WORLD
INDUSTRIAL UNION DEPARTMENT — AFL-CIO
INTERNATIONAL LADIES GARMENT WORKERS UNION OF AMERICA
INTERNATIONAL UNION OF ELECTRICAL, RADIO & MACHINE WORKERS
IOTA PHI LAMBDA, INC.
JAPANESE AMERICAN CITIZENS LEAGUE
JEWISH LABOR COMMITTEE
JEWISH WAR VETERANS
LABOR ZIONIST ORGANIZATION OF AMERICA
NATIONAL ALLIANCE OF POSTAL EMPLOYEES
NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE
NATIONAL ASSOCIATION OF COLORED WOMEN'S CLUBS, INC.
NATIONAL ASSOCIATION OF NEGRO BUSINESS & PROFESSIONAL WOMEN'S CLUBS, INC.
NATIONAL ASSOCIATION REAL ESTATE BROKERS, INC.
NATIONAL BAPTIST CONVENTION, USA
NATIONAL BAR ASSOCIATION
NATIONAL BEAUTY CULTURISTS LEAGUE, INC.
NATIONAL CATHOLIC SOCIAL ACTION CONFERENCE
NATIONAL CATHOLIC CONFERENCE FOR INTERRACIAL JUSTICE
NATIONAL COMMUNITY RELATIONS ADVISORY COUNCIL
NATIONAL COUNCIL OF CATHOLIC MEN
NATIONAL COUNCIL OF CATHOLIC WOMEN
NATIONAL COUNCIL OF CHURCHES — COMMISSION ON RELIGION AND RACE
NATIONAL COUNCIL OF JEWISH WOMEN
NATIONAL COUNCIL OF NEGRO WOMEN
NATIONAL COUNCIL ON AGRICULTURAL LIFE AND LABOR
NATIONAL FARMERS UNION
NATIONAL FEDERATION OF SETTLEMENTS AND NEIGHBORHOOD CENTERS
NATIONAL MEDICAL ASSOCIATION
NATIONAL NEWMAN CLUB FEDERATION
NATIONAL NEWSPAPER PUBLISHERS ASSOCIATION
NATIONAL STUDENT CHRISTIAN FEDERATION
NATIONAL URBAN LEAGUE
NEGRO AMERICAN LABOR COUNCIL
NORTH AMERICAN FEDERATION OF THE THIRD ORDER OF ST. FRANCIS
NORTHERN STUDENT MOVEMENT
PHI BETA SIGMA FRATERNITY
PHI DELTA KAPPA SORORITY
PIONEER WOMEN
PRESBYTERIAN INTERRACIAL COUNCIL
RETAIL, WHOLESALE & DEPARTMENT STORE UNION
SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE
STATE, COUNTY, MUNICIPAL EMPLOYEES
STUDENT NONVIOLENT COORDINATING COMMITTEE
TEXTILE WORKERS UNION OF AMERICA
TRANSPORT WORKERS UNION OF AMERICA
UNION OF AMERICAN HEBREW CONGREGATIONS
UNITARIAN UNIVERSALIST ASSOCIATION — COMMISSION ON RELIGION AND RACE
UNITARIAN UNIVERSALIST FELLOWSHIP FOR SOCIAL JUSTICE
UNITED AUTOMOBILE WORKERS OF AMERICA
UNITED CHURCH WOMEN
UNITED HEBREW TRADES
UNITED PACKINGHOUSE, FOOD & ALLIED WORKERS
UNITED RUBBER WORKERS
UNITED STATES NATIONAL STUDENT ASSOCIATION
UNITED STATES YOUTH COUNCIL
UNITED STEELWORKERS OF AMERICA
UNITED SYNAGOGUE OF AMERICA
UNITED TRANSPORT SERVICE EMPLOYEES OF AMERICA
WOMEN'S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM
WORKERS DEFENSE LEAGUE
WORKMEN'S CIRCLE
YOUNG WOMEN'S CHRISTIAN ASSOCIATION OF THE U.S.A.
ZETA PHI BETA SORORITY

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 89th CONGRESS, FIRST SESSION

Vol. 111 WASHINGTON, TUESDAY, APRIL 13, 1965 No. 66

Senate

VOTING RIGHTS AND THE POLL TAX

Mr. KENNEDY of Massachusetts. Mr. President, I rise to discuss the constitutionality of the amendment to the administration's voting rights bill adopted by the Senate Judiciary Committee—and also by House Judiciary Subcommittee No. 5—to prohibit the exaction of a poll tax in State and local elections.

The amendment adopted by the Senate Judiciary Committee reads as follows:

SEC. 9. No State or political subdivision shall deny or deprive any person of the right to register or to vote because of his failure to pay a poll tax or any other tax or payment as a precondition of registration or voting (S. 1564, Rept. No. 162, Apr. 9, 1965).

The amendment adopted by House Judiciary Subcommittee No. 5 is in substantially similar terms:

SEC. 10. No State or political subdivision thereof shall deny any person the right to register or to vote because of his failure to pay a poll tax or any other tax (H.R. 6400, committee print, Apr. 10, 1965).

It is the view of a substantial majority of the fine lawyers on both these committees that Congress has clear authority to outlaw the poll tax in State and local elections. It is my purpose today to outline the reasons why I subscribe to that view.

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

Mr. KENNEDY of Massachusetts. I would be delighted to yield to the Senator from New York.

Mr. JAVITS. I should like to compliment the Senator from Massachusetts on his role in supporting the amendment and sponsoring it with the rest of us in the Committee on the Judiciary. I am very pleased to see the Senator undertaking a considered analysis and justification for the amendment.

If the Senator would refer back to the proceedings—I believe it was as early as 1957 or 1958—he will see that I tried to achieve this result by statute at that time. I thought the argument was irrefutable then, but the Senate did not agree with me. The vote was quite close. I deeply believe that the Senator is rendering a signal service to the country and to all of us in undertaking to meet a detailed challenge as to the legality of doing this by statute instead of again by constitutional amendment. We recently adopted a constitutional amendment, and we see how it failed to meet the full measure of the challenge which we face.

Mr. KENNEDY of Massachusetts. I appreciate the comments of the Senator from New York. He has long been recognized as a great champion of civil rights and liberties in this body. He has interested himself not only in cosponsoring this amendment in the Senate Judiciary Committee, but vocally on the floor of the Senate and in other parts of the country has alined himself in this undertaking. I appreciate the comments of the Senator from New York.

Mr. JAVITS. I thank the Senator.

Mr. KENNEDY of Massachusetts. At the present time five States require payment of poll taxes as a condition of voting in State and local elections: Alabama, Arkansas, Mississippi, Texas, and Virginia. Arkansas has just adopted a constitutional amendment to abolish the poll-tax requirement and the implementing legislation is expected to be passed in the near future.

The taxes in the four remaining poll-tax States are as follows:

State	Annual rate	Cumulative provision	Maximum charge
Alabama	$1.50	2 years	$3.00
Mississippi	2.00	do	4.00
Texas	1.50	None	1.50
Virginia	1.50	3 years	4.50

There are thus only four last-ditch poll tax States in the Nation today. Forty-six States, subscribing to the principle of voting rights unencumbered by any fiscal exaction, have set a national norm of conduct against the poll tax. In my opinion, Congress not only has the authority to outlaw the poll tax in these remaining four States under section 5 of the 14th amendment and section 2 of the 15th amendment, but it has the duty to do so and to do so now. For the history of the poll tax is so entwined with racial discrimination that it can never and will never be separated from racial discrimination.

We seek in this Congress to make voting rights a reality for all. Three times in the last 8 years, Congress has passed voting rights bills. Each time we have discovered that the laws were too weak, their procedures too cumbersome, their evasion too easy, to really do the job. And so this year, the President has asked us to superimpose the Federal power, and Federal personnel, to assure the right to vote in areas where that right is being denied. I do not think any of us who support this bill would like to see it pass, and then see the right to vote again denied because of failure to pay the poll tax. We would not like to see States raise the current tax to $50 or $100, as they could now do, to keep Negroes from voting. So let us foreclose this possibility, to assure the purpose of the voting rights bill.

Mr. Justice Black, speaking for the Supreme Court in *Wesberry* v. *Sanders*, 376 U.S. 1, 17–17, declared:

No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined.

Congressmen and Senators have always taken very seriously their obligation to uphold the Constitution. They have not abandoned judgments on constitutionality of statutes to the Supreme Court. If a provision is before us that we clearly believe is unconstitutional, we should not pass it. But where an argument of genuine legal merit can be made for its constitutionality, we should not refuse to pass a needed law merely because the Court might not uphold it. Moreover, it is settled constitutional practice that a constitutional issue on which Congress has declared its will comes to the Court on much stronger grounds than when Congress has not acted. A court which may have avoided, or ruled adversely, on a constitutional issue raised by a private citizen attacking a State statute, like the poll tax, looks at such a statute in a fresh light when the issue comes before it clothed with the strength of congressional policy.

Section 5 of the 14th amendment says:

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

And section 2 of the 15th amendment says:

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

These are express grants of power to Congress to enforce those articles. I do not think the U.S. Supreme Court would rule that Congress had overstepped the boundaries of its authority under these two sections by outlawing the poll tax. Indeed, except where individual rights were concerned—see, for example, the case of *Aptheker* v. *Secretary of State*, 378 U.S. 500—right to a passport—and *Reid* v. *Covert*, 354 U.S. 1—right to a civilian trial—the Supreme Court has not invalidated any act of Congress since the days of its obstruction to New Deal legislation in the thirties. A Court which

has been so sensitive to individual rights is hardly of a mind to invalidate congressional action to buttress what it has called the precious right to vote.

So let me turn to an analysis of the constitutionality of the poll tax.

I

The purpose of the poll tax in the Southern States where they have been enacted was clearly one of discrimination against Negroes.

Back in 1942 the Senate Judiciary Committee expressly so found. In Senate Report No. 1662, 77th Congress, 2d session, these telltale words are found:

We think a careful examination of the so-called poll tax constitutional and statutory provisions, and an examination particularly of the constitutional conventions by which these amendments became a part of the State laws, will convince any disinterested person that the object of these State constitutional conventions, from which emanated mainly the poll tax laws, were motivated entirely and exclusively by a desire to exclude the Negro from voting.

Again in 1943, in the 78th Congress, the Senate Judiciary Committee had this to say in Senate Report No. 530, 78th Congress, 1st session:

The pretended poll tax qualification for voting has no place in any modern system of government. We believe it is only a means, illegal and unconstitutional in its nature, that is set up for the purpose of depriving thousands of citizens of the privilege of participating in governmental affairs by denying them a fundamental right—the right to vote.

We think a careful examination of the so-called poll tax constitutional and statutory provisions, and an examination particularly of the constitutional conventions by which these amendments became a part of the State laws, will convince any disinterested person that the object of these State constitutional conventions, from which emanated mainly the poll-tax laws, were moved entirely and exclusively by a desire to exclude the Negro from voting.

These conclusions, so sharply drawn by the Senate Judiciary Committee two decades ago are based on the words of those who enacted these poll taxes. The proceedings of the constitutional conventions which imposed the poll taxes are replete with statements, by the draftsmen, that the purpose of the taxes was Negro disenfranchisement. See Journal of the Proceedings of the Constitutional Convention of the State of Mississippi, 11 (Jackson 1890); Official Proceedings of the Constitutional Convention of the State of Alabama, (1901) 3368, (Wetumka, 1940); Report of the Proceedings and Debates of the Constitutional Convention of Virginia, 1901–02, 604 (Richmond, 1906); see also Snow, "The Poll Tax in Texas: Its Historical, Legal and Fiscal Aspects," 32—manuscripts, M.A. thesis, University of Texas, 1936.

Indeed, the Mississippi Supreme Court, shortly after the enactment of the poll tax in that State, candidly held that the tax was primarily designed to restrict Negro suffrage, in the case of *Ratliff* v. *Beale*, 74 Miss. 247, 20 So-865 (1896). That was a case brought to recover property seized by the sheriff for nonpayment of the poll tax. In interpreting the purpose of the poll tax, the Court held it was primarily designed to restrict Negro suffrage and allowed recovery of the property. The Court discussed the poll tax as part of an overall scheme to control the franchise, which also included apportionment:

If we look at a map of the State, and at the census reports, showing the racial distribution of our population, and consider these in connection with the apportionment of the Constitution, it will at once appear that unless there be a great shifting of population, the control of the legislative department of the State is so fixed in the counties having majorities of whites as to render exceedingly improbable that it can be changed in the near future. The election of the chief executive of the State is also largely affected by the same means. It is in the highest degree improbable that there was not a consistent, controlling, directing purpose governing the Convention by which these schemes were elaborated and fixed in the Constitution. Within the field of permissible action under the limitations imposed by the Federal Constitution, the Convention swept the circle of expedients to obstruct the exercise of the franchise by the Negro race. By reason of its previous condition of servitude and dependence, this race had acquired or accentuated certain peculiarities of habit, of temperment, and of character, which clearly distinguished it as a race from that of the whites—a patient, docile people, but careless, landless, and migratory within narrow limits, without forethought. Restrained by the Federal Government from discriminating against the Negro race, the Convention discriminated against its characteristics * * *. Payment of taxes for 2 years at or before a fixed date anterior to an election is well qualified to disqualify the careless.

In the article of franchise is found the section we have under consideration. True, it is a revenue measure. But it is also true that the payment of the tax is one of the qualifications of an elector, and the question is whether its primary purpose is for revenue, with incidental disqualification to vote attached to its nonpayment, or whether the tax was levied primarily as an additional disqualification to those who should not pay it * * *. The following history of the subject of poll taxes, as appearing in the journals of the Convention, will cast some light on the question involved. (Here follows a discussion of the action of the Convention.) In our opinion, the clause was primarily intended by the framers of the Constitution as a clog upon the franchise, and secondarily and incidentally only as a means of revenue" (pp. 868–869).

The situation is even clearer, if possible, in Virginia. Here is what the 1942 Senate Judiciary report, from which I have already quoted, has to say on the origin of the poll tax in that State:

We desire to call attention to the Virginia constitutional convention which submitted an amendment which was afterward adopted to the constitution of Virginia by which it was intended to disfranchise a very large number of Virginia citizens. We think this convention can be regarded as a fair sample of other conventions in other poll tax States. Hon. Carter Glass was a member of that convention. Near the beginning of the convention Senator Glass made a speech in which he outlined in a very forceful language what the object was, after all, of the convention. He did this in his usual commendatory method of getting at the real cream in the coconut. Near the beginning of the convention he made a speech in which he said:

"The chief purpose of this convention is to amend the suffrage clause of the existing constitution. It does not require much prescience to foretell that the alterations which we shall make will not apply to all persons and classes without distinction. We were sent here to make distinctions. We expect to make distinctions. We will make distinctions."

Near the conclusion of the convention, Senator Glass delivered another address in which he referred to the work already performed by the convention. He said:

"I declared then (referring to the beginning of the convention and the debate on the oath) that no body of Virginia gentlemen could frame a constitution so obnoxious to my sense of right and morality that I would be willing to submit its fate to 146,000 ignorant Negro voters (great applause) whose capacity for self-government we have been challenging for 30 years past."

There is no doubt but what Senator Glass stated the real object the convention had in view. The fact that his remarks were received with great applause indicates that his fellow members of that convention agreed with him and that the real object they had in view, and which they believed they could accomplish, was disfranchising "146,000 ignorant Negro voters."

Mr. President, there is documentation, too, that the purpose of the Alabama constitutional convention that adopted the poll tax was to disfranchise the colored voters of that State. The president of the convention, as quoted in the journal of the convention, stated:

The purpose of the convention was, within the limits imposed by the Federal Constitution to establish white supremacy. (Hearings before a subcommittee of the Committee on the Judiciary of Senate, 78th Cong., 2d sess., on S. 1280, p. 254.)

It should be noted at this point that the poll tax was part, but only part, of a larger effort by the Southern States to resist Negro voting. Congress, by an act of 1867, granted Negro suffrage. Three years later, the 15th amendment forbade the denial of voting rights to any citizen by either the Federal or State Governments because of race. The first poll tax law was passed that very year. Professor Munro, in his book, "The Government of the United States," described what happened in these words:

Since 1877, when the troops were withdrawn, the Southern States have successfully managed to evade, circumvent, and render largely innocuous the provisions of the 15th amendment. At first they did it by Ku Klux methods, intimidating the Negro into abstention from the polls. But there developed among the white population of the South a feeling that these rough-handed methods could not go on forever and that the actual disfranchisement of the Negro ought to be "legalized." How to do this, and still keep from colliding with the Federal authorities, has given them some trouble; but they have managed it. The artifices which they have used to disfranchise the Negro are interesting, and a few of them ought to be briefly described, if only for the purpose of showing how the law of the land gives way before a strong public sentiment. (Munro, "The Government of the United States," 109 (4th ed. 1937).)

The U.S. Commission on Civil Rights in its 1959 report summarizes these events:

Between 1889 and 1908, the former Confederate States passed laws or amended their constitutions to erect new barriers around the ballot box. The most popular were (1) the poll tax; (2) the literacy test; (3) the "grandfather clause", which provided an alternative to passing a literacy test for those who had voted in 1867 (or some year when Negroes could not vote) and to their descendants. Other measures included stricter residence requirements, new criminal disqualifications, and property qualifications as an alternative to the literacy test.

These barriers often kept poor whites from voting—and were sometimes openly so intended. But, their sponsors made little or no attempt to disguise their chief objective, which was to disfranchise Negroes in flat defiance of the 15th amendment. The chairman of the suffrage subcommittee in the 1902 Virginia constitutional convention declared of the new literacy test:

"I expect the examination with which the black men will be confronted to be inspired by the same spirit that inspires every

man up this floor and in the convention. I do not expect an impartial administration of this clause."

The president of the 1898 Louisiana constitutional convention, which adopted the first grandfather clause, summarized as follows:

"We have not drafted the exact constitution that we should like to have drafted; otherwise we should have inscribed in it, if I know the popular sentiment of this State, universal white manhood suffrage, and the exclusion from the suffrage of every man with a trace of African blood in his veins * * *. What care I whether the test we have put be a new or an old one? What care I whether it be more or less ridiculous or not? Doesn't it meet the case? Doesn't it let the white many vote, and doesn't it stop the Negro from voting, and isn't that what we came here for?" (pp. 30–32).

The poll tax was thus conceived in discrimination. Its purpose—to keep Negroes from the franchise—is its fatal infirmity. It can hardly be doubted that Congress, acting to implement the equal protection and due process clauses of the 14th amendment and the right to vote in the 15th amendment, has full authority to outlaw State provisions purposefully dedicated to restricting the right to vote. This principle was settled in *Gwinn* v. *United States*, 238 U.S. 347 (1915) in which the Supreme Court outlawed the grandfather clause; in *Buchanan* v. *Warley*, 245 U.S. 60, (1917) in which it struck down zoning to restrict the franchise; and most recently in *Gomillion* v. *Lightfoot*, 364 U.S. 339 (1960), in which the redistricting of Tuskeegee, Ala., to exclude Negro voting was held unconstitutional.

II

Mr. President, not only was the poll tax conceived in discrimination, but it has been operated in a discriminatory manner.

The leadership Conference on Civil Rights presented evidence on the discriminatory operation of the poll tax to House Judiciary Subcommittee No. 5 through Chairman Roy Wilkins, its counsel, Joseph L. Rauh, Jr., and Virginia Attorney Samuel Tucker. Evidence was given there of Negroes being denied the right to pay their poll taxes. There was evidence, too, of lawsuits being necessary to compel officials to accept payment of the poll tax by Negroes.

One case cited to the House subcommittee was *U.S.* v. *Dogan*, 314 F. 2d 767 (5th Cir., 1963). In that case the United States sought a mandatory injunction on behalf of Negro residents of Tallahatchie County, Miss., to force the sheriff of that county to accept their poll tax. The court's discussion of the facts showed that the county had approximately 6,000 white persons of voting age and 6,500 colored; that it had no colored voters; that no colored residents were permitted to pay a poll tax; that the policy of the sheriff, who was charged with collecting the tax, was to allow his deputies to accept payment from white applicants, but to have all colored applicants referred to him personally, and that of those colored applicants so referred, none were allowed to pay the tax. Affidavits in the record showed that one applicant had been trying regularly to pay her poll taxes from 1951 to 1962; another from 1952 to 1962. Each had been regularly turned down.

Along the same lines, Burke Marshall, former Assistant Attorney General, Civil Right Division, U.S. Department of Justice, in his article, "Federal Protection of Negro Voting Rights," in 27 "Law and Contemporary Problems" 455, 464 (1962) noted that:

> In one Mississippi county white voters pay their poll taxes to collecting deputies in either of the county sheriff's widely separated offices. Negroes who proffer their payments to the deputies are invariably told to see the sheriff, who is rarely in either office and never in both.

There are, of course, reasons why there was not more evidence along these lines presented to the Congress on the discriminatory operation of the poll tax. Discrimination through literacy tests, vouching requirements, economic reprisals, and even violence, has kept most Negroes from ever reaching the poll-tax stage. The significant point is that, with all these other methods of discrimination, there should be as much evidence of direct use of the poll tax to discriminate as there is. And its use for the future, once other discriminatory methods are swept aside, can easily be foretold. Poll taxes can be raised to prohibitory levels; more barriers can be raised in their administration. Under section 2 of the 15th amendment, Congress has clear authority to act both to redress the racial discrimination that has already occurred and to prevent it from taking new forms in the future.

III

Mr. President, not only was the poll tax conceived in discrimination, not only has it operated to discriminate, but its effect is obviously and inevitably discriminatory. As the report of the President's Committee on Civil Rights in 1947 bluntly puts it, the poll tax "has been very effective as an anti-Negro device"—page 39. Thus, for example, only 18.31 percent of the potential voters in the then eight poll tax States voted in the 1944 presidential elections, as contrasted with 68.74 percent in the 40 non-poll-tax States—see report, page 38.

In an article by Christensen, "Anti-Poll-Tax Bills," in 33 Minn. Law Rev. 217, 247, it is stated:

> Evidence that the poll tax requirement does discriminate against the Negro is not lacking. The requirement was adopted in most of the Southern poll tax States as one legal means of disfranchising the Negro. After the requirement was adopted, it is estimated that the Negro vote dropped 80 percent.

The reason for this is quite simple. The poll tax is a far heavier economic burden on Negroes than on whites. In 1959, according to the 1960 census, median family incomes for the four poll tax States were:

	White	Nonwhite	Multiple
Alabama	$4,764	$2,009	2.37
Mississippi	4,209	1,444	2.91
Texas	5,239	2,591	2.02
Virginia	5,522	2,780	1.99

And, of course, the discrepancies in large areas of these States, especially rural areas, are many times greater than on a statewide basis.

Since almost all Negroes deprived of their voting right by the tax have not paid in previous years, the cumulative provisions of the State laws are in effect. This means that a Negro in Mississippi whose income equals the State median must pay over 12 percent of his weekly income in order to vote. In Alabama and Virginia, it is 7 percent. For one-half of the Negro citizens of these States whose income falls below the median, the percentage and the economic burden is even greater. For the many rural Negroes who buy on credit and pay in crops and labor, and thus are really not within the cash economy, the funds needed for poll tax payments are impossible to raise.

These differences in income, and thus in ability to pay a poll tax, flow from the system of State-supported segregation and discrimination in all these States. If the Supreme Court's rule of "one person, one vote" as laid down in *Reynolds* v. *Sims*, 377 U.S. 533, 558, and *Gray* v. *Sanders*, 372 U.S. 368, 381, is to be meaningful, Congress must act to protect the right of those with the lowest incomes to cast their votes. For the Supreme Court has said that a person's exercise of the franchise may not be impaired because of his "economic status"—*Reynolds* v. *Sims*, 377, U.S. 533, 566.

From this decision, I conclude that a court which in these apportionment cases, even in the absence of legislation, found a violation of the 14th amendment in the unequal weight accorded votes actually cast, is hardly likely to deny Congress the authority to protect the right to cast a vote from the imposition of a tax that bears unequally on our Negro citizens.

What you have in the States with poll taxes is a history of segregation and deprivation of economic opportunity. Under these circumstances, the $3 tax in Coahoma County, Miss., operates far differently on Negroes than on whites. As I said, many Negroes in rural areas never have cash. The discriminatory effect of these States' past discrimination is carried forward through its requirement that both white and Negro pay $3 for the right to vote.

We know that educational differences resulting from past discrimination make the literacy test discriminatory. In the same way, economic differences resulting from past State action against Negro equality of economic opportunity makes the poll tax discriminatory in and of itself. This is a simple case of State action creating economic differences between Negro and white—Cf. *Brown* v. *Board of Education*, 347 U.S. 438—and then setting up a standard for voting, the poll tax, which, because of State-created economic differences, inevitably discriminates against the right of Negroes to vote. Whether or not the Supreme Court might one day invalidate the poll tax on this theory without Federal legislation is unimportant. For this, I cite *Nixon* v. *Herndon*, 273 U.S. 536 (1927); *Nixon* v. *Condon*, 286 U.S. 73 (1932); *United States* v. *Classic*, 313 U.S. 299 (1941); *Smith* v. *Allwright*, 321 U.S. 649 (1944); *Terry* v. *Adams* 345 U.S. 461 (1953). What is important is that it certainly gives Congress the power to act to protect the franchise under the 14th and 15th amendments.

Furthermore, and apart from racial considerations, a State should no more

be permitted to condition the right to vote on economic ability to pay a poll tax than it may condition the right to appeal a conviction on economic ability to pay for the record. In *Griffin* v. *Illinois*, 351 U.S. 12, which involved the right of a defendant to appeal his conviction even though he could not pay for a required record of the trial proceeding, the Supreme Court stated that "a State can no more discriminate on account of poverty than on account of religion, race, or color"—351 U.S. at 17. And in *Douglas* v. *California*, 372 U.S. 353, where it was held that an indigent person must be afforded counsel on his first automatic appeal from a criminal conviction, the Court stated that not to do so is to draw "an unconstitutional line between rich and poor"—372 U.S. at 357. I think the Court would find these cases very relevant here.

In view of the attitude the Court has taken on the rights of the poor, as shown by these cases, and in view of all the programs Congress has taken in the field of poverty, especially the Criminal Justice Act of 1963, which guarantees legal representation to indigents to secure their rights, how can we allow the poll tax which is a barrier to the fundamental right to vote to stand? How can we determine a person's right to participate in his government, through voting, by economic standards? How could the Court, if we forbade such a discriminatory determination, rule against Congress? The history of the suffrage in this country is the history of extensions of democracy by gradual removal of economic qualifications for voting. Poll tax abolition is but another chapter in this history. The same unconstitutional line between "rich and poor" occurs in Coahoma County, Miss., where a $3 poll tax is an impossible burden for many Negroes. And again it should be noted that the question is not whether the Supreme Court will act in the absence of Federal legislation, but whether it will invalidate legislation by Congress under the 14th amendment, with all the presumptions such legislation raises. As a matter of fact, the question of the validity of the poll tax in the absence of Federal legislation is pending before the Supreme Court in Harper against Virginia State Board of Elections, which will be argued in the fall of 1965 and decided in 1966—unless, of course, the Supreme Court, always anxious to avoid constitutional issues, if possible, disposes of the case on other grounds. But, as I have already indicated, the question before the Court in that case is wholly different from what would be the question before the Court if Congress acts under section 5 of the 14th amendment and section 2 of the 15th amendment to implement those articles. Congress, by enacting the antipoll tax provision adopted last week by the two committees, will be finding that the poll tax wrongly draws a line between rich and poor and between white and black, and a court which has gone so far to prohibit those lines without legislation is hardly likely to invalidate congressional action to the same end.

IV

Mr. President, I have little doubt—no, Mr. President, I will say it more strongly—I have no doubt of Congress' power to abolish the poll tax which was conceived in discrimination, which has been used to discriminate, and which has had the effect of discriminating. Having said this much, I might sit down. But, Mr. President, because a question has been raised about the constitutionality of the amendment I proposed and cosponsored by members of the committee and the Senate Judiciary Committee adopted, I should like to marshal certain additional arguments in support of our anti-poll-tax provision.

Actually, I do not suppose anyone would question congressional authority to abolish the poll tax in areas where Federal examiners will operate under the proposed bill, S. 1564. We are providing for examiners in areas of illegal discrimination; acting under the 15th amendment to protect potential voters against discrimination, Congress has the right to fashion its remedy in any reasonable manner. See Lousiana against United States, decided by the Supreme Court on March 8, 1965, just about a month ago.

Certainly, it is wholly reasonable to remove the burden of collecting the poll tax from the shoulders of the Federal examiner. And, if the Federal examiner is not to collect the tax, it will unduly complicate the machinery of registration and voting to have the potential voter dealing with the Federal examiner to register and the State authorities to pay his poll tax. The collection of a poll tax will impede the new Federal examiner system we are creating in S. 1564 and Congress can certainly remove this impediment to its action under the 15th amendment.

Actually, the difficulty is evidenced by the different drafts of the bill the Senate Judiciary Committee has been considering. The initial draft, as introduced, provided that the Federal examiner should collect the poll tax and pay it over to the State authorities. Deeming this cumbersome or worse, the substitute proposed by the junior Senator from Illinois [Mr. DIRKSEN] provided for payment to the appropriate State official directly or by post office money order. This recognizes better than anything I can say just how much the poll tax would impede the examiner system. The Dirksen substitute recognizes that the Federal examiner should not be burdened by a requirement that he collect the poll tax; it also recognizes that the State officials will not regularly receive poll taxes from Negroes. So the Dirksen substitute provided for a post office money order being sent to the State officials, thus adding to the cost of the already burdensome payment of the poll tax. Nothing could more clearly show that the payment of the poll tax would impede and hinder the examiner system. The power of Congress under section 2 of the 15th amendment to remove this impediment and hindrance in fashioning the Federal examiner system and preventing discrimination is too clear for further discussion.

V

Mr. President, I come now to another proposition that supports the Senate Judiciary Committee action: The poll tax is not a qualification for voting under article I of the Constitution, but rather a restriction on voting. Congress has power to outlaw such a restriction if it deems it a restraint on the right to vote for which there is no good cause and adequate justification.

This was well put by the Senate Judiciary Committee in 1943—Report No. 530, 78th Congress, 1st session:

> The evil the legislation seeks to correct is in effect that in taking advantage of the constitutional provision regarding qualifications, the States have no right to set up a perfectly arbitrary and meaningless pretended qualification which, in fact, is no qualification whatever and is only a pretended qualification by which large numbers of citizens are prohibited from voting simply because they are poor. Can it be said, in view of the civilization of the present day, that a man's poverty has anything to do with his qualification to vote? Can it be claimed that a man is incapacitated from voting simply because he is not able to pay the fee which is required of him when he goes to vote? In other words, when States have prevented citizens from voting simply because they are not able to pay the amount of money which is stipulated shall be paid, can such a course be said to have anything to do with the real qualifications of the voter: Is it not a plain attempt to take advantage of this provision of the Constitution and prevent citizens from voting by setting up a pretended qualification which, in fact, is no qualification at all?
>
> We believe that there is no doubt that the prerequisite of the payment of a poll tax in order to entitle a citizen to vote has nothing whatever to do with the qualifications of the voter, and that this method of disfranchising citizens is merely an artificial attempt to use the language of the Constitution, giving the States power to set up qualifications which in fact have no relation whatever to qualifications.

This same view was expressed 4 years later by the distinguished junior Senator from Illinois who has done so much for civil rights legislation. Senator DIRKSEN, then a Representative from the State of Illinois, testified before the Subcommittee on Elections of the House Administration Committee—80th Congress, 1st session—as follows:

> So I came to the conclusion that in my judgment a poll tax is not a qualification. As I see it a poll tax is not a qualification but is a restriction.

It would hardly seem necessary to belabor this point. Nothing in the payment of a poll tax evidences one's "qualification" to vote. A man with a million dollars in the bank cannot vote if he fails to pay the tax; a man who steals a couple of dollars to pay the tax has met this condition. A poll tax has nothing in common with true "qualifications": age—reflecting maturity of judgment, residence—reflecting knowledge of local conditions, and so forth. The poll tax is, as Senator DIRKSEN so well said, "not a qualification but a restriction."

Because it is a restriction on the "precious" right to vote—*Wesberry* v. *Sanders*, 376 U.S. 1, 17—those who would sup-

port the poll tax have a heavy burden to shoulder. The denial of the vote without good cause is a deprivation of constitutional right—see *Baker* v. *Carr*, 369 U.S. 186, 208. Once it is demonstrated that the poll tax cannot be justified as a "qualification" for voting fixed by the States under article I of the Constitution, good cause for this restriction on the right to vote is hard to find. No one seriously contends that it is a revenue measure. Forty-six States deem it unwise. Ample evidence exists of its discriminatory origin, application, and effect. Whether the Supreme Court would find this restriction on voting an arbitrary restriction of constitutional right in the absence of legislation, I do not know. But of this I feel quite certain: Congress has the right to determine that this restriction on the right to vote is not justified in our Nation today and to declare it illegal under section 5 of the 14th amendment.

VI

There is yet another basis on which the Congress may rest its decision that the poll tax should be prohibited, namely its authority to protect the republican form of government under section 4, article IV of the Constitution.

Not only does Congress have this authority, it is clear ever since the landmark decision in *Luther* v. *Borden*, 7 How. 1 (1849), that its judgment in exercising this authority is conclusive and nonreviewable.

On a previous occasion when an antipoll tax statute was being considered, the appropriate committee of the Senate concluded that the poll tax does in fact violate the guarantee of a republican form of government.

The Senate Judiciary Committee in Senate Report No. 530, 78th Congress, 1st session, on H.R. 7, a bill to prohibit the poll tax as a prerequisite to the exercise of the franchise, had this to say:

> In section 4, article IV of the Constitution of the United States, it is provided:
>
> "The United States shall guarantee to every State in this Union a republican form of government."
>
> What does this mean in the light of present day civilization? Can we have a republican form of government in any State, if within that State, a large portion and perhaps a majority of the citizens residing therein are denied the right to participate in governmental affairs because they are poor? The most sacred right in our republican form of government is the right to vote. It is fundamental that that right should not be denied unless there are valid constitutional reasons therefor. It must be exercised freely by freemen. If it is not, then we do not have a republican form of government (p. 5).

I believe that Congress has the right and duty to act under section 4 of article IV of the Constitution.

VII

Mr. President, I respectfully submit that the constitutional case for the statutory abolition of the poll tax outlined above is not just a good case, not just a strong case, but an overwhelming and unanswerable case.

Before concluding, however, I should like to respond briefly to three arguments that have been mentioned in support of the view that Congress does not have authority to abolish the poll tax by statute.

The first argument runs like this: When Congress abolished the poll tax in Federal elections by constitutional amendment, it conceded that it did not have the power to do this by statute; ergo and a fortiori, Congress does not have the power to abolish the poll tax in State and local elections by statute. But the conclusion falls with the premise. Congress did have the power to abolish the poll tax in Federal elections by statute. Indeed, the House of Representatives has passed five antipoll tax bills since 1939; but each time the bill died under Senate filibuster or threat of filibuster. The action of Congress in abolishing the poll tax by the 24th amendment was a compromise to avoid a Senate filibuster. In no sense was it a decision by Congress that it did not have authority to act by statute to abolish the poll tax in Federal or State elections.

Then, too, our opponents cite the Supreme Court's decision in *Breedlove* v. *Suttles*, 302 U.S. 277 (1937), which upheld the Georgia poll tax (now repealed). But any reliance upon the Breedlove case is misplaced. That was a suit by a white male claiming a denial of equal protection because of favoritism to older people and to women. The 15th amendment was not raised. No claim was made of racial or economic discrimination.

Furthermore, a decision on the poll tax in the absence of congressional action is totally irrelevant to the issue of congressional power to act. Because neither racial discrimination nor congressional action was involved in Breedlove, it has no application to the proposed anti-poll-tax provision presently in the Senate and House bills.

Finally, there is the argument that if Congress can strike down this tax, it can strike down any State tax—a sales tax, an income tax, etc. But a poll tax is obviously not a revenve-producing device. It is an attempt to deny a constitutional right. We are not dealing with money here, but with a basic right guaranteed by the Constitution. It, therefore, falls much more closely within the class of noxious taxes, such as State taxes on newspapers, which the Court has declared unconstitutional, and which Congress certainly has the right to forbid—*Grosjean* v. *American Press Publishing Co.* 297 U.S. 233.

With the 24th amendment, the Breedlove contentions both disposed of, what then is left of the doubts that have been expressed about the constitutionality of legislation abolishing the poll tax? Is there any question of the discriminatory purpose, operation and effect of the poll tax? I do not believe so. Is there any question that section 5 of the 14th amendment and section 2 of the 15th amendment are broad delegations of power to Congress to enforce these articles? I do not believe so. Is there any question that the anti-poll-tax provision would find a hospitable reception before a Court that has done so much to buttress the right to vote even while Congress failed to act? I do not believe so.

Mr. President, for all these reasons, I respectfully suggest that the time has come, if indeed it has not been long overdue, to abolish the poll tax by congressional enactment.

Among the many distinguished constitutional experts who support my views on this position, Prof. Mark De W. Howe of the Harvard Law School, sent me his views on the matter, which I believe deserve careful consideration by every Member of the Senate.

Mr. President, I ask unanimous consent to have Professor Howe's views printed in the RECORD.

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

LAW SCHOOL OF HARVARD UNIVERSITY,
Cambridge, Mass., April 9, 1965.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR: My belief that Congress possesses the power to prohibit such taxes derives from the strong conviction that the Congress was granted a far broader power by the three Civil War Amendments than the congressional leadership over the last 90 years has been willing to admit. The political considerations that originated this illusion of impotence were unhappily strengthened by a series of unfortunate opinions delivered by Justices of the Supreme Court in the 1880's and 1890's. Those statesmen who find tranquillity in the shadows of that era are quick and eager, of course, to find reassurance in its negations. They live in the absurd hope that today's Court will respond to a vigorous and thoughtful exercise of congressional power to resolve known problems in the same way that the earlier Court responded to careless and unthinking enactments born in haste for the resolution of undefined and undeveloped problems. Surely issues of power must be considered and answered in the context of history rather than framed and contemplated in a structure of abstractions.

It is inconceivable, I take it, that those Congressmen and Senators who in 1960 and 1964 supported the congressional power to enforce a presumption of literacy in Federal elections and currently are supporting the constitutional power of Congress to modify or cast aside literacy tests in all elections in any community which has used those tests to effect racial discriminations, should question the outlawry of poll taxes in those communities where they have been made an instrument for preserving a caste system. If the Congress is persuaded that there is a substantial danger that the poll tax will be put to such discriminatory uses—and the enactment of the 24th amendment is good evidence of that persuasion—I think it wholly clear that total outlawry of the tax is within the congressional power. There can be no question but that any exaction, regulatory or fiscal, which has been put to use in State and local elections to disqualify Negroes from voting is as much subject to congressional outlawry as a similar exaction impairing the Federal franchise. It was, of course, a misfortune that the Congress thought it wise to outlaw poll taxes in Federal elections by constitutional amendment instead of statutory prohibition. It does not seem to me, however, that an error of judgment then made should bar the new Congress from exercising its legitimate powers. It may even be argued, with some force, that experience under the 24th amendment has shown that for effectuation of the policies of that amendment, congressional control of

State poll taxes is appropriate. See, e .g. *Gray* v. *Johnson,* 234 Fed. Supp. 743; *Forssenius* v. *Harman,* 235 Fed. Supp. 66.

If it be asked whether the Congress is authorized to outflow poll taxes as a condition of voting in State and local elections in those communities where no finding of discriminatory motivation in such taxation has been made, I find it easy to answer affirmatively. If Congress is persuaded, as I take it that it may be, that the primary function of making payment of poll taxes a condition of suffrage has been the exclusion of Negroes from the franchise it is wholly fitting that the prohibition against their use should be made national. Those considerations which make it politically undesirable to have one law for the South and another for the balance of the Nation, surely suggest that it is constitutionally permissible for the Congress to prohibit everywhere a practice which, wherever it has recently prevailed, has been used for unconstitutional purposes. It must not be forgotten, furthermore, that the Supreme Court, in recent years, has shown a new sensitivity to the imposition of financial burdens upon an indigent's exercise of rights that are available to the affluent. See, e.g., *Giffin* v. *Illinois,* 351 U.S. 12. Those cases which have rejected the contention that the equal protection clause of its own force invalidates the exaction of poll taxes from indigent voters (see *Harper* v. *Board of Elections,* 9 Race Relations Rep. 1791) have quite naturally said nothing of the congressional power under the 14th amendment to equalize the voting rights of rich and poor. Surely a congressional finding that when a State imposes a financial exaction upon the exercise of voting rights it threatens an impairment of the equality promised by the 14th amendment would be entitled to the deepest respect by the Supreme Court.

The specifics of which I have spoken will, perhaps, be seen in a clarifying perspective if I define the broad principle which governs my judgment in these matters. I said at the outset that the Congress possesses many more powers in this area than it has traditionally exercised. This legislative atrophy has encouraged the mistaken belief that the unexercised power does not exist. The Congress evidently needs to be reminded that the sources of its authority flow from many provisions in the Constitution. Is it not time, perhaps, to recognize that the Congress may do much in the fulfillment of the Nation's responsibility to "guarantee to every State in this Union a Republican Form of Government" (art. IV, sec. 4)? It would be an odd structuring of our society if the Supreme Court of the United States could enter the mazes of State electoral processes assuring equal protection of the laws under the doctrine of *Baker* v. *Carr* and its progeny, while the Congress is barred at the threshold of effective political power. More than the Congress seems to realize, its power to define and incidentally to protect the rights of American citizens under the 5th section of the 14th amendment may be put to effective work. See *United States* v. *Waddell,* 112 U.S. 76 (1884); cf. *Hague* v. *CIO,* 307 U.S. 496. Even the best and most learned of lawyers seem to have forgotten that Mr. Justice Miller, writing for a majority of the Court in the Slaughterhouse cases acknowledged that the privileges of U.S. citizenship included the rights given by the equal protection clause of the 14th amendment (16 Wall. at 80). In the effort to make the assurances of that clause effective, insofar as American citizens are concerned, the Congress may, in my judgment, take appropriate action to secure their voting rights against invidious impairment whether on grounds of race or on grounds of indigence. If the Congress can make intrastate travel by air a privilege of U.S. citizenship (49 U.S.C. § 180; *United States* v. *Causby,* 328 U.S. 256) surely it may take action under the 5th section of the 14th amendment to make participation in State and National elections without racial discrimination or financial burdens a privilege of that citizenship. I would commend to your attention the reflections of Senator Carpenter in 1872 with respect to the scope of Congressional power under the implementing clauses of the 14th and 15th amendments (42d Cong., 2d sess., Cong. Globe 761). The same views were later stated by the first Mr. Justice Harlan in his powerful dissent in *Baldwin* v. *Franks,* 120 U.S. 678, 699–701. Today's Court, eager for active congressional participation in the struggle for civil rights, may be counted on to adopt in this matter, as in so many others, the views of Justice Harlan rather than those of his timorous bretheren.

To advocate the thesis which I have outlined is not to say that the Civil War amendments wholly abrogated the provisions of article I, section 2, by which primary authority for determining the qualifications of voters was acknowledged to be in the States. My contention does assert, however, that when U.S. citizenship was elevated by the opening sentence of the 14th amendment from a secondary to a primary status, congressional power was made so pervasive as to authorize the supersession of State power over voter qualifications. To urge that the provisions of section 2 of the 14th amendment indicate that the only permissible penalty for exclusions from the suffrage is a reduction in congressional representation, is to assert that a barrier against discrimination which has heretofore been wholly without value serves to render all other congressional efforts to deal with these pressing matters of decency unconstitutional. Section 2 of the 14th amendment established one means of encouraging universal suffrage. It should not be read as providing a barrier against legislation that seeks to assure equality between qualified white and colored voters, betwen men of means and our impoverished citizens.

There will be some in the Congress who will urge that decisions of the Court which have recognized that electoral policies and practices of the States that are not invalidated by the raw terms of the 14th and 15th amendments (e.g., *Breedlove* v. *Suttles,* 302 U.S. 277; *Lassiter* v. *Northampton Board,* 360 U.S. 45) are, by these judicial pronouncements, put beyond the reach of Congress. This analysis of power is built upon the unacceptable assumption that the Congress has no other role in the enforcement of the principles and assurances of the Civil War amendments than to assist the courts in making the judicial power in constitutional law effective. Had this philosophy governed action and decision it would have prevented the enactment or enforcement of those statutes which defined and outlawed peonage (see Peonage Cases, 123 Fed. 671; *Pollock* v. *Williams,* 322 U.S. 4). It would have rendered invalid the bulk of the Civil Rights Act of 1870 by which the Congress, among other things, sought to carry into effect the assurances of the 15th amendment and which remained on the statute books of the United States as a national electoral code until 1894 (28 Stat. 36). The timorous philosophy which I summarize would not find it easy, I think, to explain why it is that the Congress in other spheres of its competence may take action to supplement—even to undo—decisions of the Supreme Court relating to State and National power (see note, "Congressional Reversal of Supreme Court Decisions, 1945–57," 71 Har. L. Rev. 1324; Dixon, "Civil Rights in Transportation and the ICC," 31. Geo. Wash. L. Rev. 199; Black, J. dissenting, *Bell* v. *Maryland,* 84 S. Ct. 1814, 1877–78; Douglas, J. Concurring, *Heart of Atlanta Motel* v. *United States,* 85 S. Ct. 348, 369–373).

Very sincerely yours,

MARK DEW. HOWE.

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

Mr. KENNEDY of Massachusetts. I yield to the Senator from Michigan.

Mr. HART. Mr. President, it is wholly right that this first discussion of our effort to respond to the appeal of the President, who voiced the conscience of America, that the right to vote be extended to all citizens, be given us today by the junior Senator from Massachusetts. It was he who in the Committee on the Judiciary offered the poll tax amendment, and it was he who carried that point in the committee.

The remarks which he has just concluded are scholarly and eloquent.

A few years ago his distinguished brother, who once served in this body and then went on to still higher office, made a speech in New Haven, which was an appeal to this country to reexamine some myths and to test some assumptions. As I recall, President Kennedy was speaking about economic myths and assumptions. The distinguished junior Senator from Massachusetts at this moment is asking all of us to reexamine some assumptions which some of us have made with respect to a constitutional question. Each of us has a heavy obligation to read the words of the junior Senator from Massachusetts very carefully and thoughtfully, and to determine what in fact was the purpose of the poll tax and what in fact its application has been, and then to determine what the answer is with respect to the constitutionality of what I choose to call the Kennedy amendment in the voting rights bill.

The distinguished junior Senator from Massachusetts, in the early section of his remarks, pointed up the fact that each of us is bound by oath to support the Constitution, and that what we clearly believe to be unconstitutional should be rejected by us. Whatever may be our desire or wish, this binds us, as it does every citizen.

Where there is an argument of genuine legal merit about the constitutionality of a proposal, we should not refuse to enact a law which we regard as necessary to achieve an objective we regard as desirable merely because the courts might not uphold it.

As the Senator from Massachusetts has explained, there is overwhelming reason to believe that if Congress acts affirmatively on the amendment, the Supreme Court of the United States, which has been concerned about extending opportunities to minority citizens of this country, even in advance and without congressional support, will not reject the proposal.

When the bill is passed I hope thought will be given, in the excitement of that moment, to this moment, when this debate was opened so eloquently and so responsibly and so effectively by the junior Senator from Massachusetts.

I thank him very much.

Mr. KENNEDY of Massachusetts. Mr. President, I appreciate the remarks

of the Senator from Michigan. There is no member of the Judiciary Committee or of the Senate for whom I have greater respect or who has been of greater inspiration not only on this subject, but with respect to the welfare of all the people, for so many years, than the Senator from Michigan. I thank him for his very kind remarks.

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

Mr. KENNEDY of Massachusetts. I yield to the Senator from Florida.

Mr. HOLLAND. In the first place, I should like to ask the distinguished Senator with respect to a question addressed to him by the learned Senator from Michigan [Mr. HART], which complimented the Senator from Massachusetts—and I compliment him also—on his speech in the effort to carry out what he referred to as the request of the President of the United States. The Senator knows full well that the provision, seeking to eliminate the poll tax requirement in the four States which still have it, in the application to State and local elections, was not requested by the President of the United States, does he not?

Mr. KENNEDY of Massachusetts. I did not interpret the remarks of the Senator from Michigan as in any way insinuating it. I thought the Senator was referring to a speech President Kennedy made in New Haven, when he spoke about economic myths and assumptions and that we could carry that thought over into other matters.

I would be glad to yield to the Senator from Michigan for an extension of what he said.

Mr. HART. Mr. President, I would like to reply to the Senator from Florida. It was not my intention to suggest that President Johnson had recommended the elimination of the poll tax. I was suggesting that when the day came when we reviewed the action Congress had taken with respect to the extension of voting rights, an action which has been urged upon us by President Johnson, we would remember the very eloquent presentation that the Senator from Massachusetts has made today.

Mr. HOLLAND. I merely wished the RECORD to show clearly, which I believe it does now, that no one is claiming that the President of the United States has suggested that the poll tax, as a qualification for voting in State and local elections, which still prevails in four States, be eliminated. That is understood, is it not?

Mr. KENNEDY of Massachusetts. At this moment I would certainly hope that my remarks, in which I referred to the 24th amendment, were intended to be interpreted in any way except as a commendation of the fine contribution that the Senator from Florida made. He worked very hard for the elimination, by a constitutional amendment, of the poll tax. I say this with deep respect. He performed a genuine service. I believe all of us feel that way.

Mr. HOLLAND. I thank the Senator from Massachusetts. Of course, I was assisted actively and helpfully by the Senator from Massachusetts and also by the Senator from Michigan in that regard.

The second point I wished to bring out was this: The Senator understands, does he not that at the time of the adoption of the Constitution one of the original States had the poll tax requirement as a qualification for voters in that State, particularly for voters in the selection of the members of the lower house of the legislature of that State?

Mr. KENNEDY of Massachusetts. I believe that is correct.

Mr. HOLLAND. The State of New Hampshire, one of the original 13 States, had a poll tax requirement as a qualification, in the way I have stated it, of its electors. Most, if not all, of the original States had more serious handicaps in their qualification of electors, as I believe the distinguished Senator recognizes.

Mr. President, I noted that the distinguished Senator from Massachusetts in his speech, which was well prepared, and as to which I commend him as to its form and as to his delivery of it, he stated, if I understood him correctly, that the poll tax requirement did away with a right guaranteed by the Constitution. With what right did the Senator concern himself?

Mr. KENNEDY of Massachusetts. The provisions of the 14th and 15th amendments. I believe in my address I listed a number of different guarantees within the Constitution, but I referred most particularly to the 14th and 15th amendments.

I should like to point out, in reference to an earlier question asked by the Senator from Florida in relation to New Hampshire, that the town collectors in New Hampshire, as I understand it, must forward a poll tax from the town to the State. The refusal of any citizen to pay such a tax on the basis of undue hardship, would not keep him from voting, however, and the town collector can seek an abatement of the tax for the whole town. That is contained in chapter 51, New Hampshire State Laws—1963.

To quote that kind of situation in comparison with the question which is before the Congress today, which is much more basic, much more dramatic, much more conclusive, and much more exhaustive, does not really illuminate the particular question which we really have before us at the present time.

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

Mr. KENNEDY of Massachusetts. I am glad to yield.

Mr. HOLLAND. If the Senator relies on the 15th amendment to support a repeal of the poll tax requirement, he knows that amendment could relate, in this matter, only to members of the colored race. Does it not?

Mr. KENNEDY of Massachusetts. I am talking about section 2 of the 15th amendment, which states as follows:

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

I think that that section contains sufficient breadth and power to cover the proposal, together with the interpretation which section 2 of the 15th amendment has been given as which I cited in my address, along with the other provisions of the Constitution. Those which I have mentioned, and the other holdings of the Court, afford enough reason to believe that the Members of the Senate could support the amendment in good conscience, and I feel that it would be justified in doing so, and the amendment would be upheld by the Supreme Court.

Mr. HOLLAND. The Senator knows that the first portion of the 15th amendment, which is the section which creates the coverage, applies only to the saving of the right to vote on the part of members of the Negro race or any person on account of his race, color or previous condition of servitude?

Mr. KENNEDY of Massachusetts. The Senator is correct.

Mr. HOLLAND. The section does not apply to citizens generally.

Mr. KENNEDY of Massachusetts. Section 1 of the 15th amendment provides 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.

Mr. HOLLAND. I thank the Senator for quoting the section into the RECORD. I wish to state the point I was seeking to make. I have had some experience in this field because I was a participant in knocking out the poll tax entirely as a requirement for voting in my own State, the State of Florida, when I was a member of the State senate in 1937. At that time the poll tax requirement was not even a handicap to Negroes voting in the Democratic primary because at that time we had a white primary. As a result of the enactment of the poll tax amendment, there was a very great enlargement of participation in voting by white citizens immediately. The poll tax applies to both white and colored and to all citizens who are covered. We realize that the poll tax laws of the various States have different coverages. Some exclude elderly people, some exclude women, some exclude veterans, and the like.

I ask if the Senator from Massachusetts does not know it to be the case that the poll tax in every State where it exists applies as a handicap to voting on the part of people regardless of their race, regardless of their color, and regardless of their diligence, or lack of it, in taking care of their payment of the poll taxes. Carelessness and neglect had as often as not been responsible for the disqualification of people from voting in my State prior to and up to the time of our repeal of the poll tax. The Senator knows that the poll tax requirement applies equally to citizens of all colors and races, does he not?

Mr. KENNEDY of Massachusetts. What the Senator has said is substantially correct. But there are some very dramatic qualifications. If any Member of the Senate would understand more clearly than others the dramatic effect of the poll tax on Negroes, it is the Senator from Florida, because since the enactment of the 24th amendment we have seen dramatic illustrations of cases in which the total number of Negroes voting in a number of different counties and in a number of different States has been greatly increased. I stand by the arguments that I made in my formal address. I refer again to my economic

argument and the fact that there has been sufficient or significant evidence, which has been mentioned by the Civil Rights Commission, to point out where there have been instances in which registrars have refused to take poll taxes. There have been instances in which, by the very nature of the administration of the poll tax, we have seen how the cumulative effect has discriminated against Negroes on economic grounds. In many parts of the country, as the Senator would recognize, the means by which economic exchange takes place is on the basis of barter and by services rendered. Even in those areas the fact that there is a poll tax of $1 or $1.50, cumulative to $3 or even to $4, does serve economically to discriminate.

With all respect for the Senator from Florida and for his viewpoint on this question, I stand by my arguments. I stand on the arguments that I have made in my formal presentation: I believe they are overwhelming and convincing. I address them to the Members of this body.

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

Mr. KENNEDY of Massachusetts. I yield.

Mr. HOLLAND. I believe there is no Member of this body who has a clearer record of opposition to the poll tax than the Senator from Florida. But, the Senator from Florida has always tried to proceed constitutionally. He did so as a member of the State Senate of the State of Florida when he voted to repeal the poll tax for all purposes in that State. He did so here when he offered for 13 years the 24th amendment to abolish the poll tax as a requirement for voting for Federal elected officials. He did so because he knew that was a constitutional amendment. He does so now because he thinks the enactment of the 24th amendment will very speedily bring about complete relief in a constitutional way. He points to the fact that even in the limited time since the enactment of the 24th amendment or its ratification, one of the States which had a poll tax prior to that time has repealed it—the State of Arkansas. He points also to the fact that while he was urging the 24th amendment in the Senate, two other States—the State of South Carolina and the State of Tennessee—repealed their poll tax. The Senator from Florida is afraid that in his zeal and in his haste to get a quick job done, the Senator from Massachusetts is overlooking the constitutional aspects of this question, which is the reason for the questions he has raised. I thank the distinguished Senator for yielding to me.

"Every American . . . Must Have An Equal Right To Vote"

President Lyndon B. Johnson's Voting Message To A Joint Session of Congress

MARCH 15, 1965

Mr. Speaker, Mr. President, Members of the Congress:

I speak tonight for the dignity of man and the destiny of democracy.

I urge every member of both parties, Americans of all religions and of all colors, from every section of this country, to join me in that cause.

At times history and fate meet at a single time in a single place to shape a turning point in man's unending search for freedom. So it was at Lexington and Concord. So it was a century ago at Appomattox. So it was last week in Selma, Alabama.

There, long-suffering men and women peacefully protested the denial of their rights as Americans. Many were brutally assaulted. One good man, a man of God, was killed.

There is no cause for pride in what has happened in Selma. There is no cause for self-satisfaction in the long denial of equal rights of millions of Americans.

But there is cause for hope and for faith in our democracy in what is happening here tonight.

For the cries of pain and the hymns and protests of oppressed people, have summoned into convocation all the majesty of this great government of the greatest nation on earth.

Our mission is at once the oldest and the most basic of this country: to right wrong, to do justice, to serve man.

AN ISSUE TO CHALLENGE THE NATION

In our time we have come to live with the moments of great crisis. Our lives have been marked with debate about great issues, issues of war and peace, issues of prosperity and depression. But rarely in any time does an issue lay bare the secret heart of America itself. Rarely are we met with a challenge, not to our growth or abundance, or our welfare or our security, but rather to the values and the purposes and the meaning of our beloved nation.

The issue of equal rights for American Negroes is such an issue. And should we defeat every enemy, and should we double our wealth and conquer the stars and still be unequal to this issue, then we will have failed as a people and as a nation.

For with a country as with a person, "What is a man profited, if he shall gain the whole world, and lose his own soul?"

There is no Negro problem. There is no Southern problem. There is no Northern problem. There is only an American problem. And we are met here tonight as Americans, not as Democrats or Republicans, we are met here as Americans to solve that problem.

A PROMISE, NOT CLEVER WORDS

This was the first nation in the history of the world to be founded with a purpose. The great phrases of that purpose still sound in every American heart. North and South: "All men are created equal" — "government by consent of the governed" — "give me liberty or give me death." Those are not just clever words. Those are not just empty theories. In their name Americans have fought and died for two centuries, and tonight around the world they stand there as guardians of our liberty, risking their lives.

Those words are a promise to every citizen that he shall share in the dignity of man. This dignity cannot be found in a man's possessions. It cannot be found in his power or in his position. It really rests on his right to be treated as a man equal in opportunity to all others. It says that he shall share in freedom, he shall choose his leaders, educate his children, provide for his family according to his ability and his merits as a human being.

To apply any other test — to deny a man his hopes because of his color or race, or his religion, or the place of his birth — is not only to do injustice, it is to deny America and to dishonor the dead who gave their lives for American freedom.

Our fathers believed that if this noble view of the rights of man was to flourish, it must be rooted in democracy. The most basic right of all was the right to choose your own leaders. The history of this country in large measure is the history of expansion of that right to all of our people.

Many of the issues of civil rights are very complex and most difficult. But about this there can and should be no argument. Every American citizen must have an equal right to vote. There is no reason which can excuse the denial of that right. There is no duty which weighs more heavily on us than the duty we have to ensure that right.

Yet the harsh fact is that in many places in this country men and women are kept from voting simply because they are Negroes.

A RIGHT DENIED BY TRICKERY

Every device of which human ingenuity is capable has been used to deny this right. The Negro citizen may go to register only to be told that the day is wrong, or the hour is late, or the official in charge is absent. And if he persists and if he manages to present himself to the registrar, he may be disqualified because he did not spell out his middle name or because he abbreviated a word on the application. And if he manages to fill out an application he is given a test. The registrar is the sole judge of whether he passes this test. He may be asked to recite the entire constitution, or explain the most complex provisions of state laws. And even a college degree cannot be used to prove that he can read and write.

For the fact is that the only way to pass these barriers is to show a white skin.

Experience has clearly shown that the existing process of law cannot overcome systematic and ingenious discrimination. No law that we now have on the books – and I have helped to put three of them there – can ensure the right to vote when local officials are determined to deny it.

In such a case our duty must be clear to all of us. The Constitution says that no person shall be kept from voting because of his race or his color. We have all sworn an oath before God to support and to defend that Constitution. We must now act in obedience to that oath.

Wednesday I will send to Congress a law designed to eliminate illegal barriers to the right to vote.

The broad principle of that bill will be in the hands of the Democratic and Republican leaders tomorrow. After they have reviewed it, it will come here formally as a bill. I am grateful for this opportunity to come here tonight at the invitation of the leadership to reason with my friends, to give them my views and to visit with my former colleagues.

MAIN PROPOSALS OF THE VOTING BILL

I have had prepared a more comprehensive analysis of the legislation which I have intended to transmit to the clerks tomorrow but which I will submit to the clerks tonight but I want to really discuss with you now briefly the main proposals of this legislation.

This bill will strike down restrictions to voting in all elections – Federal, State, and local – which have been used to deny Negroes the right to vote.

This bill will establish a simple, uniform standard which cannot be used however ingenious the effort to flout our Constitution.

It will provide for citizens to be registered by officials of the United States government if the State officials refuse to register them.

It will eliminate tedious, unnecessary lawsuits which delay the right to vote.

Finally, this legislation will ensure that properly registered individuals are not prohibited from voting.

I will welcome the suggestions from all of the members of Congress. I have no doubt that I will get some on ways and means to strengthen this law and to make it effective. But experience has plainly shown that this is the only path to carry out the command of the Constitution.

WHAT LOCAL COMMUNITIES MUST DO

To those who seek to avoid action by their national government in their own communities, who want to and who seek to maintain purely local control over elections, the answer is simple.

Open your polling places to all your people.

Allow men and women to register and vote whatever the color of their skin.

Extend the rights of citizenship to every citizen of this land.

There is no constitutional issue here. The command of the Constitution is plain.

There is no moral issue. It is wrong to deny any of your fellow Americans the right to vote in this country.

There is no issue of states rights or national rights. There is only the struggle for human rights.

I have not the slightest doubt what will be your answer.

THIS TIME WE MUST GUARD VOTING RIGHTS

But the last time a President sent a civil rights bill to the Congress it contained a provision to protect voting rights in Federal elections. That civil rights bill was passed after eight long months of debate. And when that bill came to my desk from the Congress for my signature, the heart of the voting provision had been eliminated.

This time, on this issue, there must be no delay, or no hesitation or no compromise with our purpose.

We cannot, we must not refuse to protect the right of every American to vote in every election that he may desire to participate in. And we ought not, we must not wait another eight months before we get a bill. We have already waited a hundred years and more and the time for waiting is gone.

So I ask you to join me in working long hours, nights, and weekends if necessary, to pass this bill. And I don't make that request lightly. Far from the window where I sit with the problems of our country, I recognize that from outside this chamber is the outraged conscience of a nation, the grave concern of many nations and the harsh judgment of history on our acts.

But even if we pass this bill, the battle will not be over. What happened in Selma is part of a far larger movement which reaches into every section and state of America. It is the effort of American Negroes to secure for themselves the full blessings of American life.

Their cause must be our cause too. Because it is not just Negroes, but really it is all of us, who must overcome the crippling legacy of bigotry and injustice. And we shall overcome.

THE AGONY OF CHANGE

As a man whose roots go deeply into Southern soil I know how agonizing racial feelings are. I know how difficult it is to reshape the attitudes and the structure of our society.

But a century has passed, more than a hundred years, since the Negro was freed. And he is not fully free tonight.

It was more than a hundred years ago that Abraham Lincoln, the great President of the Northern party, signed the Emancipation Proclamation, but emancipation is a proclamation and not a fact.

A century has passed, more than a hundred years since equality was promised. And yet the Negro is not equal.

A century has passed since the day of promise. And the promise is unkept.

The time of justice has now come. I tell you that I believe sincerely that no force can hold it back. It is right in the eyes of man and God that it should come. And when it does, I think that day will brighten the lives of every American.

For Negroes are not the only victims. How many white children have gone uneducated, how many white families have lived in stark poverty, how many white lives have been scarred by fear because we wasted our energy and our substance to maintain the barriers of hatred and terror.

So I say to all of your here and to all in the nation tonight, that those who appeal to you to hold on to the past do so at the cost of denying you your future.

THE ENEMY IS IGNORANCE . . .

This great, rich, restless country can offer opportunity and education and hope to all – all black and white, all North and South, sharecropper, and city dweller. These are the enemies – poverty, ignorance, disease. They are enemies, not our fellow man, not our neighbor, and these enemies too, poverty, disease and ignorance, we shall overcome.

Now let none of us in any section look with prideful righteousness on the troubles in another section or the problems of our neighbors. There is really no part of America where the promise of equality has been fully kept. In Buffalo as well as in Birmingham, in Philadelphia as well as in Selma, Americans are struggling for the fruits of freedom.

This is one nation. What happens in Selma or in Cincinnati is a matter of legitimate concern to every American. But let each of us look within our own hearts and our own communities, and let each of us put our shoulder to the wheel to root out injustice wherever it exists.

As we meet here in this peaceful historic chamber tonight, men from the South, some of whom were at Iwo Jima, men from the North who have carried Old Glory to far corners of the world and brought it back without a stain on it, men from the East and West are all fighting together without regard to religion, or color, or region, in Vietnam, men from every region fought for us across the world twenty years ago. And now in these common dangers and these common sacrifices the South made its contribution of honor and gallantry no less than any other region of the great Republic. In some instances, a great many of them more. And I have not the slightest doubt that good men from everywhere in this country, from the Great Lakes to the Gulf of Mexico, from the Golden Gate to the harbors along the Atlantic, will rally now together in this cause to vindicate the freedom of all Americans. For all of us owe this duty; and I believe all of us will respond to it.

Your President makes that request of every American.

THE REAL HERO

The real hero of this struggle is the American Negro. His actions and protests, his courage to risk safety and even to risk his life, have awakened the conscience of this nation. His demonstrations have been designed to call attention to injustice, designed to provoke change, designed to stir reform. He has called upon us to make good the promise of America. And who among us can say that we would have made the same progress were it not for his persistent bravery, and his faith in American democracy.

For at the real heart of battle for equality is a deep seated belief in the democratic process. Equality depends not on the force of arms or tear gas but depends upon the force of moral right – not on recourse to violence but on respect for law and order.

There have been many pressures upon your President and there will be others as the days come and go, but I pledge you tonight that we intend to fight this battle where it should be fought, in the courts, and in the Congress, and in the hearts of men.

We must preserve the right of free speech and the right of free assembly. But the right of free speech does not carry with it as has been said, the right to holler fire in a crowded theater. We must preserve the right to free assembly but free assembly does not carry with it the right to block public thoroughfares to traffic.

A RIGHT TO PROTEST

We do have a right to protest, and a right to march under conditions that do not infringe the Constitutional rights of our neighbors. I intend to protect all those rights as long as I am permitted to serve in this Office.

We will guard against violence, knowing it strikes from our hands the very weapons with which we seek progress – obedience to law, and belief in American values.

In Selma as elsewhere we seek and pray for peace. We seek order. We seek unity. But we will not accept the peace of stifled rights, or the order imposed by fear, or the unity that stifles protest. For peace cannot be purchased at the cost of liberty.

In Selma tonight – and we had a good day there – as in every city, we are working for just and peaceful settlement. We must all remember that after this speech I am making tonight, after the police and the

FBI and the marshals have all gone, and after you have promptly passed this bill, the people of Selma and the other cities of the nation must still live and work together. And when the attention of the nation has gone elsewhere they must try to heal the wounds and to build a new community. This cannot be easily done on a battleground of violence as the history of the South itself shows. It is in recognition of this that men of both races have shown such an outstandingly impressive responsibility in recent days, last Tuesday, again today.

The bill that I am presenting to you will be known as a civil rights bill. But, in a larger sense, most of the program I am recommending is a civil rights. Its object is to open the city of hope to all people of all races, because all Americans just must have the right to vote. And we are going to give them that right.

All Americans must have the privileges of citizenship regardless of race. And they are going to have those privileges of citizenship regardless of race.

VOTING RIGHTS — AND OPPORTUNITY

But I would like to caution you and remind you that to exercise these privileges takes much more than just legal right. It requires a trained mind and a healthy body. It requires a decent home, and the chance to find a job, and the opportunity to escape from the clutches of poverty.

Of course people cannot contribute to the nation if they are never taught to read or write, if their bodies are stunted from hunger, if their sickness goes untended, if their life is spent in hopeless poverty just drawing a Welfare check.

So we want to open the gates of opportunity. But we are also going to give all our people, black and white, the help that they need to walk through those gates.

My first job after college was as a teacher in Cotulla, Texas, in a small Mexican-American school. Few of them could speak English and I couldn't speak much Spanish. My students were poor and they often came to class without breakfast, hungry, and they knew even in their youth that pain of prejudice. They never seemed to know why people disliked them. But they knew it was so. Because I saw it in their eyes. I often walked home late in the afternoon after the classes were finished, wishing there was more that I could do. But all I knew was to teach them the little that I knew, hoping that it might help them against the hardships that lay ahead.

Somehow you never forget what poverty and hatred can do when you see its scars on the hopeful face of a young child.

I never thought then in 1928 that I would be standing here in 1965. It never even occurred to me in my fondest dreams that I might have the chance to help the sons and daughters of those students and to help people like them all over this country. But now I do have that chance and I let you in on a secret, I mean to use it. And I hope that you will use it with me.

THE PRESIDENT AS EDUCATOR

This is the richest and most powerful country which ever occupied this globe. The might of past empires is little compared to ours.

But I do not want to be the President who built empires, or sought grandeur, or extended dominion. I want to be the President who educated young children to the wonders of their world. I want to be the President who helped to feed the hungry and to prepare them to be taxpayers instead of taxeaters. I want to be the President who helped the poor to find their own way and who protected the right of every citizen to vote in every election. I want to be the President who helped to end hatred among his fellow men and who prompted love among the people of all races and all regions and all parties. I want to be the President who helped to end war among the brothers of this earth.

And so at the request of your beloved Speaker and Senator from Montana, the Majority Leader, the Senator from Illinois, the Minority Leader, Mr. McCulloch and other leaders of both parties, I came here tonight not as President Roosevelt came down one time in person to veto a bonus bill, not as President Truman came down one time to urge the passage of a railroad bill, but I came down here to ask you to share this task with me and to share it with the people that we both work for. I want this to be the Congress, Republicans and Democrats alike, which did all these things for all these people.

Beyond this great chamber, out yonder, the fifty states are the people we serve. Who can tell what deep and unspoken hopes are in their hearts tonight as they sit there and listen. We all can guess, from our own lives, how difficult they often find their own pursuit of happiness. How many problems each little family has. They look most of all to themselves for their futures. But I think that they also look to each of us.

Above the pyramid on the great seal of the United States it says — in Latin — "God has favored our undertaking."

God will not favor everything that we do. It is rather our duty to divine His will. But I cannot help believing that He truly understands and that He really favors the undertaking that we begin here tonight.

Write to your Senators and Representatives tonight. Urge them to work and vote for the President's voting bill *strengthened* by amendments that will: eliminate poll tax, broaden coverage to *all* states and counties that discriminate, protect *all* voters from intimidation, and give voting applicants direct access to Federal voting officials.

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THE LEADERSHIP CONFERENCE ON CIVIL RIGHTS
2027 Massachusetts Ave., N.W., Washington, D. C.

FROM THE OFFICE OF
REPRESENTATIVE GERALD R. FORD
HOUSE MINORITY LEADER

FOR IMMEDIATE RELEASE
MONDAY, APRIL 5, 1965

Attached please find the text of the Ford - McCulloch Voting Rights Bill being introduced today by Representative Gerald R. Ford of Michigan and Representative William M. McCulloch of Ohio.

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89TH CONGRESS
1ST SESSION

H.R. _____

IN THE HOUSE OF REPRESENTATIVES

April _____, 1965

Mr. _____ introduced the following bill; which was referred to the Committee on the Judiciary.

A BILL

To guarantee the right to vote under the 15th Amendment to the Constitution of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act shall be known as the "Voting Rights Act of 1965."

SEC. 2. (a) The phrase "literacy test" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, or (2) demonstrate an educational achievement or knowledge of any particular subject.

(b) A person is "denied or deprived of the right to register or to vote" if he is (1) not provided by persons acting under color of law with an

opportunity to register to vote or to qualify to vote within two weekdays after making a good faith attempt to do so, (2) found not qualified to vote by any person acting under color of law, or (3) not notified by any person acting under color of law of the results of his application within seven days after making application therefor.

(c) The term "election" shall mean any general, special or primary election held in any voting district solely or in part for the purpose of electing or selecting any candidate to public office or of deciding a proposition or issue of public law.

(d) The term "voting district" shall mean any county, parish, or similar political subdivision of a State in which persons, acting under color of law, administer the registration and voting laws of the State.

(e) The term "vote" shall have the same meaning as in section 2004 of the Revised Statutes (42 U.S.C. 1971 (e)).

SEC. 3. (a) Congress hereby finds that large numbers of United States citizens have been and are being denied the right to register or to vote in various States on account of race or color in violation of the Fifteenth Amendment.

(b) Congress further finds that literacy tests have been and are being used in various States and political subdivisions as a means of discrimination on account of race or color. Congress further finds that persons with a sixth grade education possess reasonable literacy, comprehension and intelligence and that, in fact, persons possessing such educational achievement have been and are being denied or deprived of the right to register or to vote for failure to satisfy literacy test requirements solely or primarily because of discrimination on account of race or color.

(c) Congress further finds that the requirements that persons as a prerequisite for voting or registration for voting (1) possess good moral character unrelated to the commission of a felony, or (2) prove their qualifications by the voucher of registered voters or members of any other class, have been and are being used as a means of discrimination on account of race or color.

(d) Congress further finds that where in any voting district twenty-five or more persons have been denied or deprived of the right to register or to vote, as determined in section 6, there is established a pattern or practice of denial of the right to register or to vote on account of race or color.

SEC. 4. (a) Whenever the Attorney General certifies to the Civil Service Commission (1) that he has received complaints in writing from twenty-five or more residents of a voting district each alleging that (i) the complainant satisfies the voting qualifications of the voting district, and (ii) the complainant has been denied or deprived of the right to register or to vote on account of race or color within ninety days, and (2) that the Attorney General believes such complaints to be meritorious, the Civil Service Commission shall appoint an examiner for such voting district.

(b) A certification by the Attorney General shall be final and effective upon publication in the Federal Register.

(c) The examiner shall examine those persons who have filed complaints certified by the Attorney General to determine (1) whether they were denied or deprived of the right to register or to vote within ninety days and (2) whether they are qualified to vote under State law. A person's

statement under oath shall be prima facie evidence as to his age, residence and his prior efforts to register or otherwise qualify to vote. The examiner shall, in determining whether a person is qualified to vote under State law, disregard (1) any literacy test if such person has not been adjudged an incompetent and has completed the sixth grade of education in a public school in, or a private school accredited by, any State or Territory, the District of Columbia, or the Commonwealth of Puerto Rico, or (2) any requirement that such person, as a prerequisite for voting or registration for voting (i) possess good moral character unrelated to the Commission of a felony, or (ii) prove his qualifications by the voucher of registered voters or members of any other class.

(d) If the examiner finds that twenty-five or more of those persons within the voting district, who have filed complaints certified by the Attorney General, have been denied the right to register or to vote and are qualified to vote under State law, he shall promptly place them on a list of eligible voters, and shall certify and transmit such list to the offices of the appropriate election officials, the Attorney General, and the attorney general of the State, together with a report of his findings as to those persons whom he has found qualified to vote. For those persons, possessing less than a sixth grade education, the examiner shall administer a literacy test only in writing and the answers to such test shall be included in the examiner's report. The examiner shall issue to each person appearing on such a list a certificate evidencing his eligibility to vote.

(e) A finding by the examiner that twenty-five or more of those persons within a voting district, who have filed complaints certified by the Attorney General, have been denied or deprived of the right to register or

to vote and that they are qualified to vote shall create a presumption of a pattern or practice of denial of the right to register or to vote on account of race or color.

(f) Unless challenged, according to the provisions of section 5, any person who has been placed on a list of eligible voters shall be entitled and allowed to vote in any election held within the voting district unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with section 10. If challenged, such person shall be entitled and allowed to vote provisionally with appropriate provision being made for the impounding of their ballots, pending final determination by the hearing officer and by the court.

(g) No person shall be entitled to vote in any election by virtue of the provisions of this Act unless his name shall have been certified and transmitted on such list to the offices of the appropriate election officials at least forty-five days prior to such election.

SEC. 5. (a) A challenge to the factual findings of the examiner, contained in the examiner's report, may be filed by the attorney general of the State or by any other person who has received from the examiner a certified list and report of persons found qualified to vote, as provided in section 4 (d). A challenge shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission. Such challenge shall be entertained only if made within ten days after the challenged person is listed, and if supported by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for

the challenge, and such challenge shall be determined within seven days after it has been made. A person's fulfillment of literacy test requirements, if not disregarded by the examiner as provided for in section 4(c), shall be determined solely on the basis of answers included in the examiner's report.

(b) A petition for review of the decision of the hearing officer may be filed in the United States Court of Appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party, but no decision of a hearing officer shall be overturned unless clearly erroneous. A challenge to a listing made in accordance with this section shall not be the basis for a prosecution under any provisions of this Act.

SEC. 6. Upon determination by the hearing officer that twenty-five or more of those persons within the voting district, who have been placed on the list of eligible voters by the examiners, have been denied or deprived of the right to register or to vote and are qualified to vote, such determination shall establish a pattern or practice of denial of the right to register or to vote on account of race or color. The establishment of a pattern or practice by the hearing officer shall not be stayed pending final determination by the court.

SEC. 7. (a) Upon establishment of a pattern or practice by the hearing officer, as provided in section 6, the Civil Service Commission shall appoint additional examiners within the voting district as may be necessary who shall determine whether persons within the voting district are qualified to register and to vote. In determining whether such persons are so qualified the examiners shall apply the same procedures and be subject to the same conditions imposed upon the initial examiner under section 4 (c), except that a

person appearing before such examiner need not have first attempted to apply to a State or local registration official if he states, under oath, that in his belief to have done so would have been futile or would have jeopardized the personal safety, employment, or economic standing of himself, his family, or his property. Such examiner shall in the same manner as provided in section 4 (d), certify and transmit lists of persons and any supplements as appropriate, at the end of each month, to the office of the appropriate election officials, the Attorney General, and the attorney general of the State, together with reports of their findings as to those persons found qualified to vote.

(b) Persons placed on lists of eligible voters by examiners shall have the right to vote in accordance with the provisions of section 4 (f) and 4 (g).

(c) Challenges to the findings of the examiners shall be made in the same manner and under the same conditions as are provided in section 5.

(d) The Civil Service Commission shall appoint and make available additional hearing officers within the voting district as may be necessary to hear and determine the challenges under this section.

SEC. 8. (a) Whenever a person alleges to an examiner within twenty-four hours after the closing of the polls that notwithstanding his listing under the provisions of this Act he has not been permitted to vote or that his vote was not properly counted (or not counted subject to the impounding provision, as provided in this Act), the examiner shall notify the United States Attorney for the judicial district if such allegation, in his opinion, appears to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order of

contempt. Whoever, acting under color of law, fails or refuses to permit a person to vote, notwithstanding his listing under this subsection, or fails or refuses to properly count such person's vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten or coerce such person for the purpose of preventing such person from voting under the authority of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(b) Whoever,acting under color of law, within a year following an election in a voting district in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot cast in such election, or (2) alters any record of voting in such election made by a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether an applicant for listing under this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 9. Consistent with state law and the provisions of this Act, persons appearing before an examiner, shall make application in such form as the Civil Service Commission may require. Also consistent with State law and the provisions of this Act, the times, places and procedures for application and listing pursuant to this Act and removals from eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission. The Commission shall, after consultation with the Attorney General, instruct examiners concerning the qualifications required for listing.

(b) Notwithstanding time limitations as may be established under State or local law, examiners shall make themselves available every weekday in order to determine whether persons are qualified to vote.

SEC. 10. Any person whose name appears on a list, as provided in this Act, shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list. A person whose name appears on such a list shall be removed therefrom by an examiner if (1) he has been successfully challenged in accordance with the procedure prescribed in sections 5 and 7, or (2) he has been determined by an examiner (a) not to have voted or attempted to vote at least once during four consecutive years while listed or during such longer period as is allowed by State law without requiring reregistration, or (b) to have otherwise lost his eligibility to vote: Provided, however, That, in a State which requires reregistration within a period of time shorter than four years, the person shall be required to reregister with an examiner who shall apply the reregistration methods and procedures of State law which are not inconsistent with the provisions of this Act.

SEC. 11. Examiners, appointed by the Civil Service Commission, shall be existing Federal officers and employees who are residents of the State in which the Attorney General has issued his certification. Examiners shall subscribe to the oath of office required by section 16 of title 5, United States Code. Examiners will serve without compensation in addition to that received for such other service, but while engaged in the work as examiners shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from their usual place of resi-

dence, in accordance with the provisions of the Travel Expense Act of 1949, as amended. Examiners shall have the power to administer oaths.

SEC. 12. The provisions of this act shall be applied in a voting district until, within any twelve-month period, less than twenty-five persons within the voting district have been placed on lists of eligible voters by examiners.

SEC. 13. (a) All cases of civil and criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) Any statement made to an examiner may be the basis for a prosecution under section 1001 of title 18, United States Code.

SEC. 14. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 15. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

Sincerely

Bradlee

Voting Leg

A B I L L

To enforce the Fifteenth Amendment to the Constitution of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Voting Rights Act of 1965".

SEC. 2. No voting qualification or prerequisite to voting, or standard, practice or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color.

SEC. 3. (a) Whenever the Attorney General institutes a proceeding under any statute to enforce the guarantees of the Fifteenth Amendment in any State or political subdivision the court shall authorize the appointment of examiners by the Civil Service Commission in accordance with section 6 to serve for such period of time and in such political subdivisions as the court shall determine is

appropriate to enforce the guarantees of the Fifteenth Amendment (1) as part of any interlocutory order if the court determines that the appointment of such examiners is necessary to enforce such guarantees or (2) as part of any final judgment if the court finds that violations of such statute have occurred in such State or subdvision.

(b) If in a proceeding instituted by the Attorney General under any statute to enforce the guarantees of the Fifteenth Amendment in any State or political subdivision the court finds that a test or device or poll tax has been used for purposes of denying or abridging the right of any citizen of the United States to vote on account of race or color, it shall suspend the use of such test or device or poll tax in such State or political subdivisions as the court shall determine is appropriate and for such period as it deems necessary.

(c) If in any proceeding instituted by the Attorney General under any statute to enforce the guarantees of the Fifteenth Amendment in any State or political subdivision

the court finds that violations of the Fifteenth Amendment justifying equitable relief have occurred within the territory of such State or political subdivision, the court, in addition to such relief as it may grant, shall retain jurisdiction for such period as it may deem appropriate and during such period no voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect at the time the proceeding was commenced shall be enforced unless and until the court finds that such qualification, prerequisite, standard, practice, or procedure does not have the purpose or will not have the effect of denying or abridging the right to vote on account of race or color; Provided, That such qualification, prerequisite, standard, practice, or procedure may be enforced if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within 60 days after such submission.

SEC. 4. (a) To assure that the right of citizens of the United States to vote is not denied or abridged on account of race or color, no citizen shall be denied the right to vote in any Federal, State, or local election because

of his failure to comply with any test or device in any State with respect to which the determinations have been made under subsection (b) or in any political subdivision with respect to which such determinations have been made as a separate unit, unless the United States District Court for the District of Columbia in an action for a declaratory judgment brought by such State or subdivision against the United States has determined that no such test or device has been used during the five years preceding the filing of the action for the purpose of denying or abridging the right to vote on account of race or

color; Provided, That no such declaratory judgment shall issue with respect to any plaintiff for a period of five years after the entry of a final judgment of any court of the United States, whether entered prior to or after the enactment of this Act, determining that denials or abridgments of the right to vote on account of race or color through the use of such tests or devices have occurred anywhere in the territory of such plaintiff.

An action pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of Title 28 of the United States Code and any appeal shall lie to the Supreme Court. The court shall retain jurisdiction of any action pursuant to this subsection for five years after judgment and shall reopen the action upon motion of the Attorney General alleging that a test or device has been used for the purpose of denying or abridging the right to vote on account of race or color.

If the Attorney General determines that he has no reason to believe that any such test or device has been used during the five years preceding the filing of the action for the purpose of denying or abridging the right to vote on account of race or color, he shall consent to the entry of such judgment.

(b) The provisions of subsection (a) shall apply in any State or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1, 1964, any test or device, and with respect to which (2) the Director of the Census determines (A) that less than 50 per centum of the persons of voting age residing therein were registered on November 1, 1964, or that less than 50 per centum of such persons voted in the presidential election of November 1964, and (B) that according to the 1960 census, more than 20 percent of the persons of voting age were nonwhite.

A determination or certification of the Attorney General or of the Director of the Census under this section or under section 6 shall be final and effective upon publication in the Federal Register.

(c) The phrase "test or device" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any education achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class.

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

SEC. 5. Whenever a State or political subdivision with respect to which the prohibitions set forth in section 4(a)

are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1964, it may institute an action in the United States District Court for the District of Columbia for a declaratory judgment that such qualification, prerequisite, standard, practice, or procedure does not have the purpose or will not have the effect of denying or abridging the right to vote on account of race or color, and unless and until the court enters such judgment no person shall be denied the right to vote for failure to comply with such qualification, prerequisite, standard, practice or procedure; Provided, That such qualification, prerequisite, standard, practice, or procedure may be enforced without such proceeding if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within 60 days after such submission, except that the Attorney General's failure to

object shall not bar a subsequent action under section 3(c). Such an action shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of Title 28 of the United States Code and any appeal shall lie to the Supreme Court.

SEC. 6. Whenever the Attorney General certifies (a) that a court has authorized the appointment of examiners pursuant to the provisions of section 3(a), or (b) with respect to any political subdivision named in, or included within the scope of, determinations made under section 4(b) that (1) he has received complaints in writing from twenty or more residents of such political subdivision alleging that they have been denied the right to vote under color of law on account of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment (considering, among other factors, whether the ratio of nonwhite persons to white persons registered to vote within such subdivision appears to him to be fairly attributable to violations of the Fifteenth Amendment), the

appointment of examiners is otherwise necessary to enforce the guarantees of the Fifteenth Amendment, the Civil Service Commission shall appoint as many examiners, who shall to the extent practicable be residents of such State, in such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such examiners, hearing officers provided for in section 8(a), and other persons deemed necessary by the Commission to carry out the provisions and purposes of this Act shall be appointed, compensated, and separated without regard to the provisions of any statute administered by the Civil Service Commission, and service under this Act shall not be considered employment for the purposes of any statute administered by the Civil Service Commission, except the provisions of section 9 of the Act of August 2, 1939, as amended (5 U.S.C. 118i), prohibiting partisan political activity: Provided, That the Commission is authorized, after consulting the head of the appropriate department or agency, to designate suitable persons in the official service of the United States, with their consent, to serve in these

positions. Examiners and hearing officers shall have the power to administer oaths.

SEC. 7. (a) The examiners for each political subdivision shall examine applicants concerning their qualifications for voting. An application to an examiner shall be in such form as the Commission may require and shall contain allegations (1) that the applicant is not otherwise registered to vote, and (2) that, within ninety days preceding his application, he has been denied under color of law the opportunity to register or to vote or has been found not qualified to vote by a person acting under color of law: Provided, That the requirement of clause (2) of this subsection may be waived by the Attorney General.

(b) Any person whom the examiner finds to have the qualifications prescribed by State law in accordance with instructions received under section 8(b) shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 8(a) and shall not be the basis for a prosecution under Section 11 of

this Act. The examiner shall certify and transmit such list, and any supplements as appropriate, at least once a month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State, and any such lists and supplements thereto transmitted during the month shall be available for public inspection beginning on the last business day of the month and on the 45th day prior to any election. Any person whose name appears on such a list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with subsection (d): Provided, That no person shall be entitled to vote in any election by virtue of this Act unless his name shall have been certified and transmitted on such a list to the offices of the appropriate election officials at least forty-five days prior to such election.

(c) The examiner shall issue to each person whose name appears on such a list a certificate evidencing his eligibility to vote.

(d) A person whose name appears on such a list shall be removed therefrom by an examiner if (1) such person has been successfully challenged in accordance with the procedure prescribed in section 8, or (2) he has been determined by an examiner to have lost his eligibility to vote under State law not inconsistent with the Constitution and the laws of the United States.

SEC. 8. (a) Any challenge to a listing on an eligibility list shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission and under such rules as the Commission shall by regulation prescribe. Such challenge shall be entertained only if filed at such office within the State as the Civil Service Commission shall by regulation designate within ten days after the listing of the challenged person is made available for public inspection, and if supported (1) by the affidavit of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and (2) a certification that a copy of the challenge and affidavits have been served by mail or in person upon the person challenged at his place of residence set out in the application. Such challenge shall be determined within fifteen days after it has been filed. A petition for review of the decision of the hearing officer may be filed in the United States court of appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the moving party,

but no decision of a hearing officer shall be overturned unless clearly erroneous. Any person listed shall be entitled and allowed to vote pending final determination by the hearing officer and by the court.

(b) The times, places, and procedures for application and listing pursuant to this Act and removals from the eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission and the Commission shall, after consultation with the Attorney General, instruct examiners concerning (1) the qualifications required for listing, and (2) loss of eligibility to vote.

(c) Upon the request of the applicant or the challenger, the Civil Service Commission shall have the power to require by subpoena the attendance and testimony of witnesses and the production of documentary evidence relating to any matter pending before it under the authority of this section. In case of contumacy or refusal to obey a subpoena, any district court of the United States or the United States court of any

territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a hearing officer, there to produce pertinent, relevant and nonprivileged evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

SEC. 9. (a) No person in a political subdivision with respect to which the provisions of section 4(a) are in effect or with respect to which a judicial finding of violations of the Fifteenth Amendment warranting equitable relief has been entered shall be denied the right to vote in any election for failure to pay a poll tax if he pays such tax as may be required by State law to the appropriate State official either directly or by purchasing and transmitting to the appropriate State official a money order of the United States Post Office designed for this purpose. The United States Post Office shall issue a receipt reciting such payment and transmittal and such a receipt shall be conclusive evidence of such facts. Such money orders and receipts may be purchased at any United States Post Office or from any examiner appointed pursuant to the provisions of this Act.

(b) No person in such a political subdivision who registers to vote for the first time after November 1, 1964, shall be denied the right to vote in any election for failure to pay a poll tax or to make timely payment thereof if at least 45 days prior to such election he pays the poll tax due under State law for the year in which he registers in accordance with subsection (a), Provided, That, no such person shall be required to pay poll taxes for prior years.

SEC. 10. No person acting under color of law shall fail or refuse to permit to vote any person who is entitled to vote under any provision of this Act, or fail or refuse to count such person's vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any such person for voting or attempting to vote under any provision of this Act, nor shall any person, whether acting under color of law or otherwise, intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for exercising any powers or duties under section 3(a), 6, 8, 9 or 11(e).

SEC. 11. (a) Whoever shall deprive or attempt to deprive any person of any right secured by section 2, 3, 4, 5, 7, or 9 or who shall violate section 10, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(b) Whoever, within a year following an election in a political subdivision in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot cast in such election, or (2) alters any record of voting in such election made

by a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) Whoever conspires to violate the provisions of subsection (a) or (b) of this section, or interferes with any right secured by section 2, 3, 4, 5, 7, 9, or 10 shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(d) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 2, 3, 4, 5, 7, 9, 10 or subsection (b) of this section, the Attorney General may institute for the United States, or in the name of the United States, an action for preventive relief, including an application for a temporary or permanent injunction, restraining order, or other order, and including an order directed to the State and State or local election officials to require them (1) to permit persons listed under this Act to vote and (2) to count such votes.

(e) Whenever in any political subdivision in which there are examiners appointed pursuant to this Act any person alleges to such an examiner within 48 hours after the closing of the polls that notwithstanding (1) his listing under this Act or registration by an apporpriate election official and (2) his eligibility to vote, he has not been permitted to vote in such election, the examiner shall forthwith notify the United States Attorney for the judicial district if such allegations in his opinion appear to be well founded. Upon receipt of such notification, the United States Attorney may forthwith apply to the district court for an order declaring that the results of such election are not final and temporarily restraining the issuance of any certificates of election, and the court shall issue such an order pending a hearing on the merits. In the event the court determines that persons who are entitled to vote under the provisions of this Act were not permitted to vote in such election, it shall provide for the casting or counting of their ballots and require the inclusion of their votes in the total vote before the results of such election shall be deemed final and any

force or effect given thereto. The district court shall hear and determine such matters immediately after the filing of such application. The remedy provided in this subsection shall not preclude any remedy available under State or federal law.

(f) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether a person asserting rights under the provisions of this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 12. Listing procedures shall be terminated in any political subdivision of any State (a) with respect to examiners appointed pursuant to section 6 whenever the Attorney General notifies the Civil Service Commission (1) that all persons listed by the examiner for such subdivision have been placed on the appropriate voting registration roll, (2) that there is no longer reasonable cause to believe that persons will be deprived of or denied the right to vote on account of race or color in such subdivision, and (b), with respect to examiners appointed pursuant to section 3(a), upon order of the authorizing court. A political subdivision may petition the Attorney General for the termination of listing procedures under clause (a).

SEC. 13. (a) All cases of criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) No court other than the District Court for the District of Columbia shall have jurisdiction to issue any declaratory judgment or any restraining order or temporary or permanent injunction against the execution or enforcement of any provision of this Act or any action of any Federal officer or employee pursuant hereto.

(c)(1) The term "vote" shall include all action necessary to make a vote effective in any primary, special or general election, including, but not limited to, registration, listing pursuant to this Act, or other action required by law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election.

(2) The term "political subdivision" shall mean any county or parish, except that where registration for voting is not conducted under the supervision of a county or parish, the term shall include any other subdivision of a State which conducts registration for voting.

(d) Whoever, in any matter within the jurisdiction of an examiner or hearing officer knowingly and wilfully falsifies or conceals a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

SEC. 14. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 15. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

LEADERSHIP CONFERENCE ON CIVIL RIGHTS

ROY WILKINS, Chairman
ARNOLD ARONSON, Secretary
JOSEPH L. RAUH, JR., Counsel
CLARENCE M. MITCHELL, Legislative Chairman
MARVIN CAPLAN, Director Washington Office

2027 Mass. Ave., N.W., Washington, D. C. 20036 phone 234-4722 • New York address: 20 West 40th St. New York 18, phone BRyant 9-1400

April 2, 1965

Dear Friend:

You will recall that Reverend Martin Luther King's name was attached to a memorandum issued on February 27 in the name of four organizations, setting forth the kind of voting legislation they would support.

Since then, Dr. King has written the enclosed statement in order to clarify his position. Bayard Rustin read this statement to Leadership Conference representatives at the meeting on March 17. Now, at Dr. King's request, we are sending it to cooperating organizations within the conference.

Sincerely yours,

Arnold Aronson

Arnold Aronson
Secretary

Enclosure
tl

C O P Y

MEMORANDUM TO: Members of the Leadership Conference on Civil Rights and all participating groups in the American Civil Rights Movement

FROM: Dr. Martin Luther King, Jr.,
President of Southern Christian Leadership Conference

SUBJECT: VOTING LEGISLATION

This memorandum is being sent to clarify and supplement the position of the Southern Christian Leadership Conference in relationship to the memorandum dated February 27, 1965, subject: "Voting Legislation." However, I must make clear that the memorandum of February 27th does not accurately reveal either the manner in which I feel so important a debate should take place nor does the memorandum fully represent the spirit and position of the SCLC.

In the first place, I believe that the Civil Rights Act of 1964 was a tremendously positive achievement. The public accommodations and fund withholding titles have already had significant impact; the employment section will have, I trust, great effect commencing in July. We all knew that the voting section of the 1964 Act would prove ineffectual and that additional legislation would be necessary. Not only do we believe that the 1964 Act was a great step forward, but we also know that it could only have been accomplished by the unity of the more than 80 groups within the Leadership Conference working together in mutual trust and confidence.

It is most important for the Civil Rights movement to support the strongest possible voting legislation. I know that this is the overwhelming view of the members of the Leadership Conference. We must all strive to bring about a unified position of the Leadership Conference and then working through the Conference carry that position to fruition. In any event, wherever disagreements exist they should be worked out fully, debated and resolved, within the framework of the Leadership Conference.

In the last analysis, the Administration will draft and send to Congress its own legislation. Our job is to achieve the kind of unity which will assure the passage of a voting bill which once and for all will guarantee the right of universal suffrage.

All of us working together can bring about another legislative victory.

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May 13, 1965

MEMORANDUM TO THE VICE PRESIDENT

FROM JOHN STEWART

Both Joe Rauh and Clarence Mitchell want you to know that they have been doing their best to clarify the erroneous news stories about your alleged activity against the liberals' poll tax position. Clarence told me that he was your "witness in Court" if that ever became necessary.

Joe Rauh also wanted to have it clear with you that Ned Kenworthy's story today was also inaccurate. He recalled that you had called him with the proposition that the ban be removed from the liberals' amendment leaving only the declaration of policy. Joe said this was not acceptable to the liberals. Kenworthy had reported that you had offered the three-point compromise which was later rejected by Mansfield.

In any event, both Joe and Clarence are deeply disturbed over the inaccurate reporting and are trying to tell their people the straight story. I just wanted to pass this message along to you.

CR - Vtg Rts

COPY

May 31, 1965

Memo to the Vice President

From John Stewart

Lee White passed along to me a message from the President to you, namely, that you should get together with Katzenbach, Celler, Speaker McCormick, Carl Albert, and anyone else necessary to work out an effective compromise on the voting rights bill in order to avoid direct confrontation between the houses in a conference committee.

I have some ideas about how this compromise could be worked out and will be passing them along to you after checking with Charlie Ferris.

JS/ep/Treasury

May 3, 1965

Dear Joe:

Thanks so much for your note and the resume of Treasury legislation. This will help keep my reference book up to date.

I am asking my appointments secretary to see whether my schedule will permit my attending your Treasury luncheon on May 5, and want to thank you so much for the invitation.

Best wishes.

Sincerely,

Hubert H. Humphrey

The Honorable Henry H. Fowler
Secretary of the Treasury
Washington, D. C.

LEADERSHIP CONFERENCE ON CIVIL RIGHTS

JLL vot Jeg

ROY WILKINS, Chairman
ARNOLD ARONSON, Secretary
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CLARENCE M. MITCHELL, Legislative Chairman
MARVIN CAPLAN, Director Washington Office

2027 Mass. Ave., N.W., Washington, D. C. 20036 phone 234-4722 • New York address: 20 West 40th St. New York 18, phone BRyant 9-1400

MEMO: No. 63
May 24, 1965

TO: Cooperating Organizations

FROM: Arnold Aronson, Secretary

SENATE VOTES TOMORROW ON LIMITING DEBATE

An important move toward bringing the Senate's Voting Rights Bill to a final vote will be made tomorrow, May 25, at 1 P.M. when the Senate leadership will attempt to invoke cloture and limit debate. Two-thirds of the Senators present and voting, 67 if all 100 are there, are needed to support the move. The Leadership Conference wired all of its cooperating organizations last week, alerting them to the cloture attempt and urging them to ask their Senators to back it. There is still time between now and 1 P.M. to get some final message in asking Senators to decide that a month's discussion is long enough and to prepare the way for voting the measure up or down.

Senate Improves Its Bill: But The House Bill Is Still Better

One can look back with pleasure upon last week, since the Senate strengthened the voting bill in at least three respects:

1. It adopted a declaration that the constitutional right of citizens of the United States to vote is denied or abridge in certain states by the requirement that a poll tax be paid as a condition for voting;

2. It added a provision that would enable voting applicants in states or counties that discriminated to go directly to Federal examiners instead of having to go first to local registrars;

3. It agreed to give the Attorney General power to assign poll watchers to any election under his jurisdiction.

Even with these improvements, though, the Senate bill is still not as good as the measure approved by the House Judiciary Committee. That is better at least eight ways:

1. It outlaws the poll tax;

2. It is stronger than the Senate bill in providing for direct access to Federal examiners;

3. It makes it harder for states to obtain exemption from the Act by requiring, in effect, a five year period of good behavior;

4. It protects not only voting registrants but also civil rights workers who urge and aid registration;

5. It omits the provision in the Senate bill that grants exemption to states and counties with nonwhite populations of less than 20 per cent;

6. It covers the election of party officers;

7. It permits Federal examiners to be drawn from anywhere in the country, unlike the Senate bill which would tend to require examiners to be residents of the state to which they are assigned;

8. It would protect all registered voters from intimidation, not only newly registered ones.

It is our hope that eventually the Senate will adopt the House Committee bill and the task that lies immediately beyond cloture is to protect that bill against weakening amendments and get it through the House.

WE MUST OPPOSE ATTEMPTS TO WEAKEN SCHOOL DESEGREGATION RULES

The opponents of civil rights never rest. While the organizations and individuals participating in the Leadership Conference have been occupied with the Voting Rights bill, eight Southern governors have undertaken a campaign to stymie school desgregation in their states.

Seven of them came up to Washington this past week to meet with their Congressional delegations in an attempt to get their Senators and Representatives to help pressure the Office of Education into being more lenient.

It's A Generous Policy Already

The immediate target was the Office of Education's recent statement of policy regarding desegregation of public schools under Title VI of the Civil Rights Act. The policy is already lenient enough, too lenient in view of a number of civil rights lawyers who have studied it. Eleven years after the Supreme Court ordered schools to desegregate with all deliberate speed, the Office of Education is prepared to give school districts three more years to complete the job. In order to comply with Title VI and

more -

continue to receive Federal funds for school programs, they must desegregate at least four grades in the 1965-66 school year - the first grade (and kindergarden where there is one); the freshmen and senior grades in high school and the lowest grade in junior high. By 1967 all grades must be desegregated.

The policy permits schools to base their desegregation plans on a system of geographic attendance areas and on a system of giving students "free choice" in the selection of the school they will attend. Both plans, some critics point out, lend themselves to evasion or delay in integration.

Nevertheless, the statement of policy is a forward step in the government's effort to obtain compliance with the Civil Rights Act. It is at least a move toward meeting some of the criticism that was voiced at the regional conference the U.S. Commission on Civil Rights held in Atlanta on April 14. At that meeting, civil rights representatives were astounded to learn from James Quigley, Assistant Secretary, Department of Health, Education and Welfare, of which the Office of Education is part, that the Office had no fixed guide or standard for measuring the degree of compliance of the school desegregation plans it was receiving. It seems likely that the loud outcries in Atlanta helped spur The Office on to issuing its policy statement.

We Need To Shout Again

The governors are now out to wreck the policy if they can. By coincidence, they came to Washington on the day the Commission was holding another of its conferences, one for the mid-Atlantic region. They met with their Congressional delegations in closed session. From all reports there was considerable grumbling among the delegations at the hot potato the governors were trying to hand them. One Congressman had the courage to say so. Rep. James A. Mackay, of Atlanta, said he rejected the counsel "of those who would make the school house and the school yard a battleground." Even Senator A. Willis Robertson of Virginia, a firm foe of civil rights legislation, was disgruntled. He came out of the meeting calling it a waste of time.

Leadership Conference Opposes the Governors Move

The Leadership Conference is opposing this attempt to interfere with Office of Education policy. At the regional meeting the Conference held in Washington last week, following the Commission's meeting by a day, it was agreed that a letter should be sent to the President protesting the action of the governors and urging him to help the Office of Education resist intimidation. (The text of the letter is attached.)

That letter needs to be followed by many more. An excellent example of that kind of mail that is particularly effective is provided by the statement issued by 331 prominent Georgians, who took issue with Governor Carl Sanders of their state, leader of the gubernatorial delegation. In

more -

their letter to the President protesting attempts to slow desegregation they urged the President to "stand firmly against this assault which endangers the future of our children." (The text of their letter is in the attached story from the New York Times.)

The other governors who came to Washington practically constitute a roll-call of last-ditch resisters: Albertis S. Harrison, Virginia; George E. Wallace, Alabama; John J. McKeithen, Louisiana; Paul B. Johnson, Mississippi; Orval Faubus, Arkansas; Haydon Burns, Florida: and Robert McNair, South Carolina. Gov. Dan K. Moore of N.C. was ill and sent a representative.

If your organization has any strength in these states or if you live in one of them be sure to write your own letters - to the White House, to Commissioner Francis Keppel, % the Department of Health, Education and Welfare; and to your governor. Statements such as the one issued by the Georgians are particularly valuable in convincing government officials and the President that the Southern governors speak "not for our South but for a South that is dying."

SPECIAL BULLETIN - AGRICULTURE APPROPRIATION IN DANGER

The vindictive nature of the opponents of civil rights was evidenced again, just as this MEMO was being sent out, by the action of the Southern-dominated House Agriculture Committee in cutting $295,000 out of the Agriculture Department's appropriation for the fiscal year starting July 1. It is no surprise surely that this is exactly the sum the Department sought to carry out its work under the Civil Rights Act. We urge you to wire members of Congress to support the attempt to restore the funds. The appropriations bill comes up in the House this Wednesday and an effort will be made to put the $295,000 back in.

* * * * *

NOTE TO WASHINGTON REPRESENTATIVES: We will continue to meet each Monday afternoon at 3:30 P.M.

Attachment A

THE NEW YORK TIMES
May 17, 1965

AID RULES BACKED BY 331 GEORGIANS

Letter to Johnson Disputes Governors on Schools

By ROY REED
Special to The New York Times

ATLANTA, May 16 — A letter signed by 331 Georgians was sent to President Johnson this weekend expressing support of recent desegregation rulings by the Federal Office of Education.

The letter registers "strong disagreement with the position being taken by Southern Governors."

Six Governors met at Atlanta last Sunday and criticized the Department of Health, Education and Welfare for what they called an illegal expansion of the 1964 Civil Rights Act. Three other Southern Governors supported them.

Several Southern Governors plan to meet with Southern Congressmen Tuesday in Washington to explore the regulations further.

At issue is a ruling by Francis Keppel, Commissioner of Education, that Federal aid will be denied to schools that have not desegregated at least four grades by this fall.

Church Leaders Sign

The letter to the President, signed by leaders of several church and civic organizations, said:

"The position taken by the Office of Education—your position, Mr. President--meets with the approval of millions of Southerners. In 1955, the Supreme Court adopted the rule of "all deliberate speed" in school desegregation matters. For a tragic decade much of the South has involved itself in little deliberation, less speed. Desegregation of public schools has been token.

"Title VI of the Civil Rights Act of 1964 is clear. Your mandate, Mr. President, is clear. Southern communities have had 10 years to prepare themselves and their people for compliance with the law. Protestations have a hollow ring; the protestors speak not for your South but for a South that is dying.

"We urge you to stand firmly against this assault which endangers the future of our children."

Among the signers were Charles Morgan Jr., Southern Director of the American Civil Liberties Union; Mrs. Walter Thomas, president of the United Churchwomen of Georgia; Mrs. George Gunning, national vice chairman of the legislative committee of the National Council of Catholic Women; the Rev. John B. Morris, Georgia director of the Episcopal Society for Cultural and Racial Unity.

Also Benjamin E. Mays, president of Morehouse College; Rabbi Jacob M. Rothschild of the Temple at Atlanta; Archbishop Paul J. Hallinan of the Roman Catholic Diocese of Atlanta, and four department heads from Emory University, Prof. Alvin V. Beatty, chairman of the biology department, Dr. Richard Hocking, chairman of the philosophy department, Dr. Edward T. Ladd, director of the division of teacher education, and Dr. Albert E. Stone Jr., chairman of the English department.

The Southern Governors' meeting was called by Gov. Carl E. Sanders of Georgia. It was reported today that 10 or 12 Georgia Negro leaders, including two State Senators from Atlanta, Leroy R. Johnson and Horace T. Ward, met with Governor Sanders Friday to protest his part in the meeting.

Text of Letter Sent to The President:

Attachment B

May 21, 1965

The President
The White House
Washington, D. C.

Dear Mr. President:

We wish to express our indignation at the attempt by a group of Southern governors to interfere with the efforts of Federal agencies to enforce the Civil Rights Act of 1964.

According to newspaper reports, the governors are trying to force the Office of Education to weaken its newly announced policy of school desegregation for states wishing to comply with Title VI of the Act. While the Office of Education guidelines are a good and important step toward defining the issues, we think they are still too weak and general. It would be intolerable if they were watered down or applied with undue leniency to states that have already had 11 years to comply with the Supreme Court's school decisions.

In a letter we sent to Secretary of Health, Education and Welfare Anthony J. Celebrezze on December 31, 1964, we objected to the Title VI regulations his agency had just promulgated because we thought they lent themselves to unconscionable delays and possible subterfuge. We said, "They may also permit government officials to delay obtaining compliance in a manner that can nullify the intent of Congress. It is our conclusion that Congress meant these rights to be granted forthwith." Yet, here is the Office of Education giving states three more years to desegregate their schools. Surely that is more than enough time. Any yielding to pressure from the governors would be a repudiation of a formal act of Congress.

We congratulate Commissioner of Education Francis Keppel for saying in Atlanta that "we haven't any intention of changing policy." We are sure you will place the full weight of your authority in support of his office and other Federal agencies in their attempts to carry out their obligations under Title VI.

The Title VI regulations need to be strengthened and compliance more vigorously enforced. These are the tasks to which we hope the Office of Education and other agencies will direct their efforts.

We warmly applaud the courageous Georgians who joined in a recent letter to you protesting any weakening of the school regulations. We agree with them that the Southern governors speak "not for your South but for a South that is dying." Strong regulations and strong enforcement will hasten its demise.

Faithfully yours,

Arnold Aronson
Secretary

Bill: For John S?
S yrs.

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File

May 12, 1965.

GEN. E.W. RAWLINGS, USAF (RET)
President

Mr. William Connell
Administrative Assistant to the
Vice President of the United States
Washington, D. C.

Dear Bill:

I can't thank you enough for taking time from your busy schedule to see me last Friday. I was particularly pleased that you made it possible for me to speak with Vice President Humphrey when I had no appointment.

As you requested, I am enclosing herewith copies of my testimony on S. 385, Packaging and Labeling Bill, and also copies of testimony by Mr. Aaron Yohalem, Senior Vice President of Corn Products Company, who followed me that morning.

If you will analyze this testimony, I am sure you will understand the idea I was trying to get across to you.

If you have any further questions, do not hesitate to give me a ring at any time.

Again, many thanks for your cordiality and tell the Vice President that I am sorry I did not get to see him when he was in Minneapolis this weekend.

Sincerely,

Ed

EWR GA
Encls.
cc Mr. Morton Wilner

Transcript of testimony of
Mr. Aaron Yohalem
Senior Vice President
Corn Products Company

May 7, 1965

The United States Senate

Report of Proceedings

Hearing held before

Committee on Commerce

S. 985
A BILL TO REGULATE INTERSTATE AND FOREIGN COMMERCE BY PREVENTING THE USE OF UNFAIR OR DECEPTIVE METHODS OF PACKAGING OR LABELING OF CERTAIN CONSUMER COMMODITIES DISTRIBUTED IN SUCH COMMERCE, AND FOR OTHER PURPOSES.

7 May 1965

Washington, D. C

MONICK-SULLIVAN

Official Reporters

415 Second Street, N. E.
Washington, D. C., 20002

Telephone:
547-6222

NATION-WIDE COVERAGE

1contd. Senator Lausche. You are A. S. Yohalem, Senior Vice President of Corn Products Company, of New York City.

You may proceed.

STATEMENT OF AARON S. YOHALEM, SENIOR VICE PRESIDENT CORN PRODUCTS COMPANY.

Mr. Yohalem. Thank you.

If there are no objections, we would appreciate it if the entire statement we have submitted is inserted in the record.

Senator Lausche. Mr. Yohalem, if you can do it, I am sure that Senator Hart and I will appreciate it. First we will put in the record your complete statement.

(The full text of the statement follows:)

Statement
On Behalf Of
CORN PRODUCTS COMPANY

Presented By
AARON S. YOHALEM
Senior Vice President, Corn Products Company
ON S. 985, "FAIR PACKAGING AND LABELING BILL"

Before The
COMMITTEE ON COMMERCE
UNITED STATES SENATE

May 7, 1965

My name is Aaron S. Yohalem. I am a senior vice president of Corn Products Company, with which I have been associated for some thirty years.

We appreciate the opportunity to present our company's views on this proposed legislation, which is of major concern to us.

Corn Products has a long history of service to, and great interest in, the consumer. Without satisfied consumers we would have no customers. The consumer is our first concern; everything we do is done with her interest in mind. We believe S. 985 will be detrimental to the consumer's interests.

As a producer and marketer of grocery and household products -- including such long-standing consumer favorites as Hellmann's-Best Foods mayonnaise, Skippy peanut butter, Mazola and Nucoa margarines, Mazola salad oils, and Karo syrups -- Corn Products puts $160 million a year into

the hands of American farmers whose products we buy. We believe S. 985 will be detrimental to these farmers.

Corn Products employs 11,500 people in this country, operating 28 plants and warehouses in 16 states. We believe S. 985 will be detrimental to these workers.

Corn Products has 78,300 shareholders with shareholders in every State of the Union, and we believe S. 985 will be detrimental to these shareholders.

In discussing S. 985, I should like to talk about two areas:

I The fallacy of what we consider the underlying philosophies of S. 985

II Specific sections of S. 985 and their probable effects.

In addressing my comments to what we consider the most basic objections to S. 985, I shall not be discussing the specific provisions but rather the underlying philosophies and what these will be doing to our way of economic life.

It is not alone what S. 985 would do today that disturbs us. It is what S. 985 can do in the days ahead that we find fundamentally unsound.

We are concerned with the incipient and undefined powers that S. 985 grants to Federal agencies.

S. 985 in effect is a licensing bill -- a control bill - rather than a regulatory measure. It is a licensing law, for it would permit a Government official to say that a manufacturer must obtain permission from a Federal agency if he wants to engage in the normal commercial processes of changing his product's packaging or labeling.

* * * *

In addition, S. 985 calls for Congress to grant unrestricted rule-making power to the enforcement agencies without guidelines as to the use of that power.

Traditionally in the food field, we have worked under "self-executing" statutes, except where the nature of the product does not permit this approach. In the past, Congress has watched carefully the delegation of its Constitutional legislative powers. Congress has retained control; usually it has delegated only the administration and execution of its laws. S. 985 delegates the power to "enact" substantive regulations. In effect, therefore, S. 985 asks Congress to give the Secretary of Health, Education and Welfare and the Federal Trade Commission a blank check.

* * * *

S. 985 is also a bill that would permit Federal agencies to prohibit industry practices -- on the vague grounds of insuring "rational comparison." In a few minutes we shall give examples of the difficulties in "rationally comparing" seemingly similar products.

Furthermore, dangerous new ground would be broken if this "rational comparison" theory were enacted into law. It would make a mockery of provisions for hearings and judiciary review. Evidence of cost and other disadvantages to the manufacturer -- or even evidence of disadvantages to the consumer -- would not be admissible. For -- under S. 985 -- the sole ground for decision need only be the presumption that a regulation would make it easier to compare competing products.

This should not be the basis for prohibiting, or requiring prior licensing of, business actions. We agree that deceptive practices should be condemned, but there are already laws on the books to prohibit such deception, as we shall discuss later.

* * * *

S. 985, under the guise of "reducing confusion," would also weaken the time-honored principle of law that a person is innocent until proven guilty.

In concept, it simultaneously strongly implies that a significant portion of the business community tries to "fool a significant number of people a significant part of the time," and that the American housewife is gullible, uncomprehending, confused and helpless.

We must take issue with both of these implications. Certainly no one in the food business could survive very long on the basis of deceiving the consumer.

No consumer is obliged to buy any particular product. The consumer has the freedom to choose from a multiplicity of products that she believes might meet her family's needs and wants. Each year new products are introduced in the hope of better satisfying these needs and wants. These new products must compete for shelf space with the estimated 8,000 different items already in the supermarket. Industry records show that six out of ten new products fail in test marketing and that numbers of established products lose their consumer franchise each year because consumers do not feel that the products meet their needs. This indicates that the American consumer is intelligent and discriminating in her selection of products.

We believe that the foundations of American law and of our system of government have been built on the presumption of the intelligence -- not the stupidity -- of the public. If we are to accept the presumption of "consumer confusion" inherent in S. 985, shall we not have to modify our entire system

of law? We must recognize the intelligence of the public if we are to avoid chaos in the management of public and private affairs.

Except where deception is concerned, we urge you to permit the self-regulating features of our economy to work. To quote from an editorial in the 1963 annual report to shareholders of our company:

> "Companies such as Corn Products are in favor of food and drug laws. We see in the regulatory agencies of Government, such as the Food and Drug Administration, an important protection, not only for the consumer but for responsible business as well. Our position is, however, that further imposition of red tape between buyer and seller is unnecessary and dangerous . . . .
>
> "This is the danger: As laws multiply, the point is reached when they can exert a negative rather than a protective influence. The object of law should be to strengthen individual responsibility.
>
> "Under any just code of laws, there is always room for personal standards even higher than the law requires. But laws which hem in virtually every action tend to become the maximum standard of conduct. So involved do people become in following the law's intricacies that moral as well as physical initiative is discouraged."

* * * *

In S. 985, the theory of "rational comparison" becomes the basis of delegating to Federal agencies -- without detailed guidelines -- the

power of making laws (or their equivalent -- substantive rules). This power properly belongs in the Congress, particularly for those areas of economic judgment which affect major industries.

But, as though this were not sufficient, we find another fundamental philosophy underlying this bill -- the philosophy that price competition alone is the foundation of all competition and that it is in the public interest to eliminate, or standardize, nonprice competitive factors.

I know that proponents of the bill say in effect, "Yes, nonprice competitive forces exist, but they must be regulated so as to enhance or preserve fair competition between competing products." But it seems to us that they want to so standardize nonprice competitive factors that in the end the only effective competitive force is "price."

Advocates of S. 985 have talked about "rational decisions" based on price-per-unit comparison between competing brands and sizes. They falsely assume that all competing products are alike and packaging serves only the purpose of switching purchasers from one brand to another with no tangible superiority.

This concept has no basis in fact. In the first place, it is rare that competing consumer products are alike in all aspects. Second, different types of products compete to serve the same needs. Third, packages are not

extraneous to the purchase; they are part of the value which the consumer buys.

Let's look at these three aspects. First: Among other factors, competing products differ in quality. For instance, in producing mayonnaise, our company goes to considerable expense to use whole eggs. Neither law nor regulation compels us to do this -- it is done with the expectation that the housewife will recognize and prefer the quality of our product. And sales records indicate that our quality is recognized and preferred by housewives.

Similarly, we are very particular about the peanuts we use in our peanut butter. Peanuts grow in three geographic areas of the United States. Each area's peanuts have different properties; we have discovered that peanut butter from a blend is better than peanut butter made from just one kind of peanut. At considerable expense, we ship peanuts from one area to be blended with peanuts grown in other areas. This perhaps is not the most economical process if "economy" is solely what you seek. But we do it to maintain the excellent flavor and consistent quality of our product throughout the country so that all consumers benefit.

There is every indication that consumers recognize and are willing to pay a premium for quality products. They also recognize and want products that differ in flavor, color, aroma, and consistency - just to mention a few differentiating factors.

The second fallacy in the "competing products are all alike" theory is: Who is to say what are "competing products?" Products can be used in many ways; thus they have many competitors. Mayonnaise, of course, is used in salads and as an ingredient mixed in to make other foods taste better. But it is also used as a spread for bread (competing with margarine, peanut butter, and other spreads), and it is used as a dressing (competing with French, Russian, and Italian dressings; with catsup and mustard; and even with salt and pepper).

Dehydrated soup, as another example, competes with raw vegetables which the housewife chops up herself for homemade soup. It competes with condensed soups. It also competes as a dip ingredient, and it competes as a complete luncheon meal with meats, peanut butter, etc.

The third point is that packages themselves can add utility and value to products. The entire frozen food industry would not have been able to utilize distribution advances had appropriate packaging not been available. Aerosol cans have added convenience to the use of many products. So-called "television dinners" and the complete meal-in-a-can are other examples of the value that packaging has added to the raw materials in the containers.

Now boil-in-bag packaging and foil-paper cans are becoming significant sales factors because of the convenience they offer the busy housewife. Two-thirds of the 8,000 products now available at grocery stores

represent new or improved products over those available ten years ago. A significant number of these advances are represented by packaging improvements.

These three points illustrate the fact that price alone is not the sole factor on which products compete for the consumer's favor, and that these nonprice competitive factors should be encouraged and not eliminated.

But were you to ignore these realities and still prefer price competition to other forms, you nevertheless must find S. 985 inconsistent. There is little doubt -- as we shall show later -- that this bill's provisions will add to the cost of manufacturing consumer products. These costs will have to be passed along to the consumer. Is it rational to put emphasis on price competition and at the same time to raise the price level of consumer products? What is the objective -- a better deal for the consumer or regulation for the sake of regulation?

Thus in looking at S.985's underlying philosophies, we have seen that it would delegate substantive power to regulatory agencies -- on the grounds of stimulating "rational comparison" -- and it would standardize marketing practices in order to minimize nonprice competition. This would begin a trend in Government control of our economic life that would restrict the freedom which has made our system the most successful one in serving consumer's needs.

* * * *

Now, before we turn to the bill itself, let us examine a claim made by proponents of this legislation.

Advocates say that today the consumer cannot make a "rational comparison." They claim she is "confused" by the variety and scope of products she is offered.

We are not in favor of confusion. However, we must recognize that there is a possibility of confusion in practically anything you do in life. If there is the slightest difference between two products, it is possible that some one could be confused.

Furthermore, confusion often occurs for a time following innovation. For example, every time Congress passes an Act, there is a certain amount of confusion. That is why we have the courts to interpret the meaning and application of the law. But -- in the hope of avoiding the confusion that necessarily follows innovation -- the proponents of this bill are willing to stifle the innovations of the consumer products' manufacturers.

Innovation will be restricted because manufacturers will be reluctant to become involved in administrative hearings to obtain permission for new types, designs, and designations of containers. Also, by the time the hearings are completed, all competitive advantage would have been lost, since competitors -- alerted by the hearing procedure -- would have time to develop offsetting tactics.

Freedom-to-innovate has enabled the consumer products industries -- especially the grocery products industry -- to become a vital factor in the economic growth and physical well-being of our country.

Today, the consumer in the United States has a wider choice of highly nutritious food than at any other point in our history. She has been freed of much kitchen drudgery by the "built-in maid service" of our industry's products. It takes only 19 cents of the after-tax dollar to buy the family's food today -- as compared with 26 cents in the 1947-1949 period.

The industry which supplies this food has grown many-fold in twenty years. The industry has invested hundreds of millions of dollars in that time to research and to develop new products.

Innovation in modern packaging -- packaging which makes the product more convenient to use, packaging which has esthetic appeal, packaging which reduces the cost of products -- has made a vital contribution to the growth of our industry. It has helped the farmer by stimulating the consumption of his crops; it has helped the worker by providing more jobs. And it has helped the consumer by giving her products that stay fresher longer and save her time and energy.

The competition is keen. We in the industry realize not only are we competing for the dollar spent for consumable products, but we are also competing for a share of the entire discretionary-spending dollar. We

competing against the recreation industry and against the durable goods industry. For example, the decision to use more frozen foods may require a decision to buy a freezer -- and that decision can involve us in competition with a trip to Miami or a new stereo. These competing industries will continue to have the right to market their goods as they wish. We are competing for the same dollars. It is not fair to unnecessarily hamper us in this interindustry competition.

If we are to continue to compete effectively, we must have the freedom to innovate not only in the laboratory but in the way we package the product and in the way we bring the product to the consumer's attention.

* * * *

And now we would like to comment on specific sections of the bill and their effect.

One vital point that we and others have made throughout the testimony is that there is ample existing power under present legislation to prevent practices which are truly deceptive.

We believe that both the mandatory sections and permissive sections of S. 985 are fundamentally unnecessary because regulatory agencies may now proceed against deceptive practice or failure to state net contents or to

state them prominently. Products in interstate distribution are covered by Sections 403, 502 and 602 of the Food, Drug and Cosmetic Act, FDA Regulations under that Act, and Section 5 of the Federal Trade Commission Act.

There are also 34 states' laws that require a declaration of quantity on packages of all commodities. Some twenty-two of these laws follow the Model Weights and Measures Law in their weight declaration requirement.

Therefore, insofar as Sections 3 (a) (1), (2), (3) and (6) of S. 985 call for the prominent listing of net quantity of contents or prohibit deception on the package, they are redundant. They merely duplicate existing Federal and State laws.

* * * *

Turning to other points, we see that Section 3 (a) (5) would prohibit label statements by the manufacturer indicating retail price savings to the consumer -- whether or not such statements are deceptive. Obviously, if such statements are deceptive, they would be prohibited by present laws and regulations.

Most sections of S. 985 would "license" and restrict nonprice competitive practices, thus encouraging price competition as the prime factor. Surprisingly, Section 3 (a) (5) would seem to be contrary to the bill's

underlying preference for price competition. It proposes to prohibit one of the most competitive factors -- manufacturer-stimulated "cents-off" and similar price promotions.

Proponents of S. 985 have indeed indicated that Section 3 (a) (5) is primarily aimed at prohibiting the use of so-called "cents-off" markings by the manufacturer. Yet you have read the testimony in prior hearings on similar bills that proves housewives prefer "cents-off" promotions to all other manufacturers' promotions. The Alfred Politz Research, Inc., survey showed that 61 percent of all women shoppers prefer "cents-off" sales to all other forms of manufacturer promotions and 29 percent liked them second or third best. And 63.8 percent of all women shoppers did not think Congress should pass a law making "cents-off" illegal. Fewer than 9 percent thought such a law should be passed and the balance had no opinion.

Why do manufacturers also prefer "cents-off" promotions? Why do we feel that they are a reliable way of passing savings on to the consumer?

Promotions are fundamentally an incentive (in this instance, a price incentive) to get the consumer to try the product again at a particular time. When a "cents-off" promotion is established, the manufacturer reduces his price temporarily to the retailer by the amount of the "cents-off." This is what he is telling the consumer -- "I have reduced the price at this time." Why should he be prohibited from telling this truth in the most effective manner?

We have found that the most effective way to be sure the consumer gets the saving of a price commission by the manufacturer is to call it to her attention as part of the packaging. This can be done as a "cents-off" total promotion; as a "bonus bottle," where the buyers get, for example, an additional 3 ounces over the regular bottle; as two packages for the same price; or as a sale where one cent above the regular price of one package buys an extra package. All of these reach the consumer directly -- and all have the purpose of getting her to try the product at a particular time.

Our own surveys have shown that most retailers pass "cents-off" promotional savings on to consumers. We are not out to waste money. If we felt "cents-off" offers did not get the savings to the consumer, we would be the first to discontinue them.

In any of these manufacturer-originated promotions, the consumer benefits because she has saved money and perhaps found a new product to serve her; the retailer benefits because he can expect additional profits from increased sales; and the manufacturer benefits because he can use the most effective promotional device to stimulate sales.

The Federal Trade Commission itself has said in its Guides Against Deceptive Pricing:

> "If the former price is the actual, bona fide price at which the article was offered to the public on

> a regular basis for a reasonably substantial period of time, it provides a legitimate basis for the advertising of a price comparison."

If "cents-off" and similar promotions are used deceptively, they can be proceeded against under present laws. If they are not deceptive, why eliminate a desirable promotional device that clearly constitutes active price competition?

* * * *

Section 3 (c) (1) would permit the specification of weights or quantities in which a product shall be packed.

We understand that the aim of this section is to require commodities to be packed in some conventional unit such as "one pound," "one quart," or "8 ounces."

Yet it is no easier to figure out the cost of three 16-ounce units for 79 cents than it would be to figure out the cost of three 15-ounce units for the same price. Surely, the advocates of 3 (c) (1) are not yet proposing to regulate the prices at which commodities may be sold to the consumer so that prices are easily divisible by size units.

We believe that any attempt to prescribe rigid standards of weight and quantity will only result in higher costs to the consumer.

Let me give an example of how such regulations would affect us and could raise the cost of a product or restrict consumer choice. We presently pack nine kinds of dehydrated soups in a standard-size package. Each kind of soup has a different weight of dry substance, so the contents of packages vary from 2 3/4 ounces to 5 1/2 ounces. Pea soup, for example, is thicker than consomme with spring vegetables. But each package of ingredients will make 24 fluid ounces of ready-to-eat soup -- and that's clearly marked on the package.

Now if we have to pack the same number of ounces of ingredients in a standard package, each kind of ingredient would make a differnt quantity of finished soup. We know that would be confusing to the housewife. The alternative is to use a variety of package sizes; that will require additional packing lines beyond the present three lines. The cost of the additional packing lines plus the other additional costs of the inefficiencies of this method, would result in higher costs for us and therefore, for the consumer.

Let's look at another case. We are pledged to serve <u>all</u> consumers. We want to be able to package our products to serve the varying needs of the consumer. We cannot see why one person living in an apartment by herself should be forced to buy the same quantity of a commodity as the couple with six children or as the retired couple on a restricted diet.

That's why we shall introduce a product in one size, say, 16 ounces, then go to 24 ounces and perhaps, six ounces as the demand for the product increases among various groups.

Furthermore, Section 3 (c) (1) permits controls on a commodity basis. But frequently, more than one commodity is packaged on the same packaging line at a plant. If we are forced to modify our equipment for one commodity, we may be unable to use it for commodities that we are required to package in some different size. That means that we would be forced to bring in additional equipment for other sizes. And it would be the consumer who eventually has to assume the burden of this cost.

In addition, since products compete with others in other generic classes, it will be impossible to standardize all competing generic classes at one time. One of the inequities of S. 985 is that a manufacturer whose packaging and labeling have been standardized within the purview of S. 985 may find himself competing with other manufacturers whose product lines have not been standardized.

* * * *

Proposed Section 3 (c) (2) would permit the regulation of the sizes, shapes, and dimensional proportions of packages.

We believe that present laws are sufficient to control deceiving sizes, shapes and proportions. Section 401 of the Food, Drug and Cosmetic Act, and Section 5 of the Federal Trade Commission Act together provide existing authority to prevent the use of containers that deceive the consumer on the amount the package holds.

As I have pointed out previously, the standardization that would be authorized under Section 3 (c) (2) would stifle initiative in developing improved containers that offer important benefits to the consumer.

As an example of this initiative, our company will have spent in excess of $400,000 to develop and to put into production a new easier-to-grip container for salad oil. Our surveys showed that housewives prefer this new container three-to-one over the conventional container, especially in the larger size. We believe this new container will increase the housewives' satisfaction with our product and result in greater sales for us.

In another example, we have spent large amounts to provide for the housewife wider-mouth, shorter mayonnaise bottles so that she could avoid the "mayonnaise knuckle" she used to get trying to scrape the last bit out of the jar. In the past, the consumer wanted the jar to use for home canning; with the lessened interest in home canning, she wants the convenience of the new jar. We need the flexibility to give her what she wants.

Sometimes a new, nonconventional package provides a product of greater use to the consumer. For example, the aerosol can of Niagara starch lets the housewife starch just the collars and cuffs of her husband's shirt. That's certainly both easier and quicker than starching the whole shirt just to have starched collars and cuffs.

Similarly, Bosco milk amplifier in a pourable jar is not only easier to handle than the old spoon-it-out jar, but it encourages children to use more of other nutritious products, particularly milk. Thus it makes Mother's life easier.

Innovation and promotion of new packages is a legitimate part of the "product mix" and the profitable performance of manufacturers. It results in benefits to consumers, to farmers, and to labor as well as to the manufacturer and his stockholders. All will be hurt by the standardizations permitted under Section 3 (c) (2).

Please understand that we have no objections to voluntary standardization by an industry. We have participated in voluntary trade agreements on package sizes for margarines. But because it was a voluntary standard, when whipped margarine was developed, the manufacturer was able to move quickly to test market a new package size. There were no applications to be filed, no hearings to go through. That is the advantage of voluntary action.

* * * *

Proposed Section 3 (c) (4) provides for regulating the size of "servings" designated on packages.

The basic question is "Who should decide the amount of a 'serving'?" Who, for example, is to say how large a "cup" is? There are "cups" ranging from 4 1/2 ounces to 10 ounces in size. Soup plates range from 6 ounces to 10 ounces in capacity. And I, for one, do not eat the same size portion of vegetables as I do of pie or cake.

The best that can be done is to provide a guide for the consumer. Based on the experience of our home economists, we indicate a reasonable average serving or use. But we leave it to the housewife to decide what a "serving" is when her husband eats two 6-ounce bowls of soup, while her daughter eats only 3 ounces. She is used to making these "guestimates"; she had to do the same thing when she bought the raw ingredients herself.

We do not believe we can regulate the size of a "serving," and we do not think the Government should try to either. It has to be an estimate based on consumer surveys and the results of the work in our test kitchens. The work we do must lead to acceptability by the housewife. However, since the housewife is going to hold us responsible in any event, we believe we should have the right to use our best judgment, rather than being forced to use the estimate of a Federal administrator.

SUMMARY

Before summarizing the reasons for our opposition to S. 985, we acknowledge that testimony on predecessor bills made the point that there has been some weakness in the self-policing of the consumer product industries. But -- even if this were true -- the answer is not in S. 985. For S. 985 is restrictive -- rather than giving the consumer the opportunity for more rational choices, it will reduce her freedom of choice; rather than increasing fair competition, S. 985 will reduce it.

This is indeed a licensing bill, not a regulatory bill. It will permit the Government to require prior Federal approval of normal market-place decisions. And in the name of promoting "rational comparison" by the consumer -- a difficult, if not impossible, task in any event -- it calls for an unprecedented delegation of Congress' lawmaking power to nonelected officials.

What is to be accomplished by this licensing procedure? Little that is to the consumer's advantage. S. 985 unnecessarily duplicates existing Federal and State laws prohibiting deceptive packaging and requiring prominent indication of the net contents of packages.

In minimizing nonprice competition, S. 985 ignores the valid competition based on quality; it ignores competition among different types of

products; it ignores competition based on more convenient packages; and it ignores the fact that there are legitimate reasons for multiplicity of sizes and shapes in packages.

Little wonder that there is growing industry opposition to the philosophies expressed in this bill. S. 985 would restrict the packaging innovations which have helped the consumer products industries play a vital role in the nation's economic growth. And S.985 would prohibit nondeceptive competitive practices which save money for the consumer at the same time that they create additional business for the retailer and the manufacturer.

Many of the product improvements which have benefited the consumer and which have contributed to Corn Products' growth would have been hampered in commercial development if an S. 985 had been the law of the land. This would be detrimental not only to us but to consumers, to labor and to farmers. Furthermore, if S.985 is passed, it will lead directly to higher costs, which industry will have no choice but to pass on to the consumer -- defeating one of our aims and one of the aims of the bill's advocates, helping the consumer get more value for her money.

Mr. Chairman, I hope these views have been helpful. I am most appreciative of having been given the opportunity to express them to you.

Senator Lausche. Now if you will proceed and make your presentation, highlighting the reasons why you think this Bill should or should not be passed.

Mr. Yohalem. Thank you. I will do that. It is our belief that Senate 985 would be detrimental to the consumers who are our first concern, will be detrimental to the farmers and suppliers, will be detrimental to our employees and detrimental to our shareholders.

In short, without real benefit, S. 985 will hurt our way of economic life. It is not alone what S. 985 would do today that disturbs us. It is what S. 985 can do in the days ahead that we find fundamentally unsound. We are concerned with the incipient and undefined powers that this Bill grants to Federal agencies. S. 985, in our opinion, in effect, is a licensing bill, a control bill rather than a regulatory measure. It is a licensing bill which would permit a Government official to say that a manufacturer must obtain permission from a Federal agency if he wants to engage in the normal commercial processes of changing his product's packaging or labeling.

S. 985 is also a Bill that would permit Federal agencies to prohibit industry practices on the vague grounds of insuring rational comparison.

In a few moments we shall give examples of the difficulty in rationally comparing seemingly similar products.

Furthermore, dangerous new ground would be broken if this rational comparison theory were enacted into law. It would make a mockery of provisions for hearings and judiciary review.

Evidence of cost and other disadvantages to the manufacturer or even evidence of disadvantages to the consumer will not be admissible. For under S.985 the sole ground for decision need only be the presumption that a regulation would make it easier to compare competing products.

This should not be the basis for prohibiting or requiring prior licensing of business actions. We agree that deceptive practices should be condemned but there are already laws on the books to prohibit such deception. There is another fundamental philosophy underlying this bill that is disturbing.

It is the philosophy that price competition alone is the foundation of all competition and that it is in the public interest to eliminate or standardize non-priced competitive factors.

I know proponents of the bill say in effect Yes, non-priced competitive forces exist but they must be regulated so as to enhance or preserve fair competition between competing products but it seems to us that they want to so standardize non-price competitive factors that in the end the only effective competitor force is price.

Advocates of S.985 have talked about rational decisions

based on price per unit comparison between competing brands and sizes. They incorrectly assume that all competing products are alike and packaging serves only the function of switching purchases from one brand to another with no tangible superiority.

This concept has no basis in fact. In the first place, it is rare that competing consumer products are alike in all aspects.

Second, different types of products compete to serve the same needs.

Third, packages are not extraneous to the purchase; they are part of the value which the consumer buys.

Let's look at these three aspects. First: Among other factors, competing products differ in quality. For instance, in producing Best Foods and Hellmann's mayonnaise, our company goes to considerable expense to use whole eggs. Neither law nor regulation compels us to do this. It is done with the expectation that the housewife will recognize and prefer the quality of our product. And sales records indicate that our quality is recognized and preferred by housewives.

The second fallacy in the "competing products are all alike" theory is who is to say what are competing products. Products can be used in many ways. Thus they have many competitors.

Mayonnaise of course is used in salads and is an

ingredient mixed in to make other foods taste better. But it is also used as a spread for bread, competing with margarine, peanut butter, and other spreads, and it is used as a dressing competing with French, Russian and Italian dressing, with catsup and mustard, and even with salt and pepper.

The third point is that packages themselves can add utility and value to products. The entire frozen food industry would not have been able to utilize distribution advances had appropriate packaging not been available.

Aerosol cans have added convenience to the use of many products. So-called TV dinners and the complete meal in a can are other examples of the value that packaging has added to the products and containers.

Now boil-in-bag packaging and foil paper cans are becoming significant sales factors because of the convenience they offer the busy housewife. Two-thirds of the 8,000 products now available at grocery stores represent new or improved products over those available ten years ago.

A significant number of these advances are received by packaging improvements. There three points illustrate the fact that price alone is not the sole factor on which products compete for the consumer's favor and that these nonprice competitive factors should be encouraged and not eliminated, or standardized.

The written statement details our comments on specific

sections of the bill which I will not go into at this time.

However, I cannot avoid stressing the obvious inconsistency of section 3(a)(5) in that most sections of S. 985 would license and restrict non-priced competitive practices, thus encouraging price competition as the prime factor, but section 3(a)(5) would seem to be contrary in that it proposes to prohibit one of the most competitive factors, manufacturer-stimulated "cents off" and similar price prohibition.

Promotions are fundamentally an incentive. In this instance, a price incentive, to get the consumer to try the product again at a particular time. When a "cents off" promotion is established, the manufacturer reduces his price temporarily to the retailer by the amount of the "cents off." This is what he is telling the consumer: "I have reduced the price at this time."

Why should he be telling this truth in the most effective manner?

Our own surveys have shown that most retailers pass "cents off" promotional savings on to consumers. We are not out to waste money. If we felt "cents off" offers did not get the savings to the consumer, we would be the first to discontinue them.

In any of these manufacturer-originated promotions --

Senator Lausche. May I interrupt?

To what extent, if at all, have you found instances where the retailer didn't make available to the buyer,the customer, the "cents off" benefit?

Mr. Yohalem. We have found instances where the retailer has not made the offer available to the consumer. We tried to call it to his attention but recall that we are bound by the anti-trust laws not to establish retail pricing. We expect, however, that the store on the corner or around on the next street who will pass it on will be the competitive force that will force all retailers to do this.

By and large, however, the amount that is not passed on is small because if it was large it would not be accomplishing what we set out to do.

Senator Lausche. Under the anti-trust law, you cannot command a retailer to sell at a specific price. If you did that, you would be violating the Federal law.

Mr. Yohalem. That is right, Senator Lausche.

Senator Lausche. Now, let's say four cents off of the regular price. Why don't you state on the package "Regular price 40 cents; 'cents off' price 36 cents"?

Mr. Yohalem. Because, Mr. Chairman, in the first instance not all retailers price uniformly our products, or most grocery products. We may be charging the same price but a large supermarket as opposed to a smaller delivery store that gives credit will usually have a price differential.

So that if we attempt to price each commodity on the package, it would be of no avail. It might be even difficult to have the retailers accept these. There are a few products that we could suggest a retail price for but in the food end of the business, it is very rare that this is done.

Senator Lausche. And the fact that you don't put on the price is because the fixing of the prices is the ultimate authority of the retailer?

Mr. Yohalem. Exactly, sir.

Senator Lausche. You hope that the price off will be passed on to the customer through the coercive power that a competitor selling the same goods applies when he does pass it on in conflict with what the other merchant does in not passing it on?

Mr. Yohalem. Exactly, plus the fact we believe it good business for the retailer to do so because it will stimulate his own sales and thus bring him more profit.

Senator Lausche. Are you able to say what the situation would be if you put on this package "Price 40 cents" from a legal standpoint?

Mr. Yohalem. I believe we have the right to suggest a retail price. Therefore, I believe we would be permitted to do this. But from a practical standpoint, particularly a food product, I believe it would not be wise, and, of course, from a legal standpoint, the retailer could pay no attention to it.

We couldn't enforce it.

Senator Lausche. But if you and the retailer entered into an agreement --

Mr. Yohalem. I believe it would be illegal.

Senator Lausche. Both of you would be subject to Federal --

Mr. Yohalem. Yes.

Senator Lausche. -- prosecution, whatever it might be.

Mr. Yohalem. Yes. In any of these manufacturer-originated promotions, the consumer benefits because she has saved money and perhaps found a new product to serve her. The retailer benefits because he can expect additional profits from increased sales and the manufacturer benefits because he can use the most effective promotional device to stimulate sales.

The Federal Trade Commission itself has said in its guides against deceptive pricing, and I quote, "If the former price is the actual bona fide price at which the article was offered to the public on a regular basis for a resonably substantial period of time, it provides a legitimate basis for the advertising of a price comparison."

If "cents off" and similar promotions are used deceptively, they can be proceeded against under present laws. If they are not deceptive, why eliminate a desirable

promotional device that clearly constitutes active price competition?

Before summarizing, I would like to make one point: In my written statement, I detailed the point that innovation and promotion of new packages is a legitimate part of the product application and the profitable performance of manufacturers. It results in benefits to consumers, to farmers and to labor as well as to the manufacturer and his stockholders.

All will be hurt by the standardizations permitted under Sections 3 (c) (1) and 3 (c) (2). Please understand, we have no objections to voluntary standardization by an industry. We have participated in voluntary trade agreements on package sizes for margarine. But because it was a voluntary standard when whipped margarine was developed, the manufacturer was able to move quickly to test market a new package size. There were no applications to be filed, no hearings to go through. That is the advantage of voluntary action.

In summarizing the reasons for our opposition to S. 985, we acknowledge the testimony on predecessor bills made the point there has been some weakness in the self-policing of the consumer products industry but even if this were true, the answer is not in S. 985. For S. 985 is restrictive. Rather than giving the consumer the opportunity for more rational choices, it will reduce her freedom of choice. Rather than

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Mr. Chairman, I hope these views have been helpful. I am most appreciative of having been given the opportunity to express them to you.

Senator Lausche. You are very welcome.

Senator Hart?

Senator Hart. I have understood all along your strong opposition to it and the reasons you assign. Just on this price-off basis, isn't the problem here that if you put a claim on your box that it is four cents off, that representation is being made to the retail purchaser, not the person to whom you sell, and necessarily, doesn't it assume a control over the retail price which you, in fact, don't have?

Isn't that in substance what you told Senator Lausche?

Mr. Yohalem. Not really so. Let me see if I can't explain the theory that I see here. When we put "four cents off regular price," in the first instance, we have given the retailer at least four cents off the prior price that we charged, so that the retailer does not loose anything.

Secondly, we have then told the retailer what we are doing and we feel it is the obligation of the retailer, if he does not want to pass the saving on, he shouldn't accept the offer. If he does accept the offer, he is fundamentally morally, ethically liable to pass the saving on, and if he doesn't, even though he accepts it, he should strike the language off the label by overprinting or doing something about it.

Senator Hart. The label represents a saving to whom.

Mr. Yohalem. It should represent a saving to the consumer. A saving over the prior price at which that product was on the shelf.

Senator Hart. But you are in no position to assure that this, in fact, will happen, are you?

Mr. Yohalem. But we are, shall I say, contracting with the retailer to pass this saving on. When we offer this to the retailer, he has advance notice because we advise him of the price reduction and, therefore, in effect, he shouldn't accept this merchandise. A retailer has the right to

refuse to accept the merchandise.

Senator Hart. Isn't your label -- and I don't think this over simplifies it a bit -- a promise to the consumer that he is getting four cents off and it is a promise you can't keep? I think this explains why we disagree.

Mr. Yohalem. I understand, Senator Hart, exactly what you are saying. I feel, however, I have explained to you our theory behind it which we believe goes all the way through.

In other words, let me take a ridiculous instance. I have a product. It is not "slack fill." It is fine. The retailers opens the can or top. He takes half of it out. He loses it. I still have given the consumer what I thought she should get but in this particular instance she is not going to get it, through no fault of mine.

Now, this was wrong on the part of the retailer, and yet I have not fulfilled the promise on the label if what you are saying is true. So that it is the theory behind this that I think we differ on.

Senator Hart. I agree with you. It is a far-fetched example.

Mr. Yohalem. Yes, sir. I say I pulled this one in order to dramatize the difference.

Senator Hart. That is all.

Senator Lausche. I have no questions. Thank you very

much for your testimony.

End ah
lw fls. Mr. Yohalem. Thank you.

Transcript of testimony of
General E. W. Rawlings
President
General Mills, Inc.

May 7, 1965

The United States Senate

Report of Proceedings

Hearing held before

Committee on Commerce

S. 306

A BILL TO REGULATE INTERSTATE AND FOREIGN COMMERCE BY PREVENTING THE USE OF UNFAIR OR DECEPTIVE METHODS OF PACKAGING OR LABELING OF CERTAIN CONSUMER COMMODITIES DISTRIBUTED IN SUCH COMMERCE, AND FOR OTHER PURPOSES.

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7 May 1965

Washington, D. C.

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Friday, May 7, 1965

United States Senate

Committee on Commerce

Washington, D. C.

The Committee met at 9:00 a.m., in Room 5110, New Senate Office Building, the Honorable Frank J. Lausche presiding.

- - -

Senator Lausche. The continuation of the taking of testimony dealing with S. 985 will proceed. The witness of the morning is General E. W. Rawlings, USAF Retired, President, and John F. Finn, Vice President, General Counsel and Secretary of the General Mills Company, 9200 Wayzata Boulevard, Minneapolis, Minnesota.

I understand General Rawlings is here.

General Rawlings. Yes, sir.

Senator Lausche. And John Finn?

Mr. Finn. Yes, sir.

Senator Lausche. Proceed, General.

STATEMENT OF GENERAL E. W. RAWLINGS, USAF, RETIRED, PRESIDENT, GENERAL MILLS COMPANY, 9200 WAYZATA BOULEVARD, MINNEAPOLIS, MINNESOTA: ACCOMPANIED BY JOHN F. FINN, VICE PRESIDENT, GENERAL COUNSEL AND SECRETARY: AND H.B. ATWATER, DIRECTOR OF MARKETING.

General Rawlings. Thank you, Mr. Senator. Can you hear satisfactorily?

Senator Lausche. Be sure and have the microphone adequately close, if you will.

General Rawlings. My name is Edwin W. Rawlings. I am President of General Mills, Incorporated. Our corporate headquarters and research laboratories are located in Minneapolis, Minnesota, and I am pleased to tell you this morning that tornado that hit last night missed our buildings and my home by a quarter of a mile.

We have grocery manufacturing, milling or other operations in the States of California, Illinois, Iowa, Kansas, Kentucky, Missouri, Montana, New York, North Carolina, Ohio, Oklahoma, Tennessee, Texas, Utah and Washington. Here with me today, representing General Mills, are John H. Finn, our Vice President and General Counsel, and H. B. Atwater, Jr., one of our Directors of Marketing.

We appreciate this opportunity to voice our views concerning Senate Bill 985. As the largest flour milling company in the United States, one of the three largest producers of

ready-to-eat cereals, and one of the leading manufacturers of cake mixes, we are greatly concerned with the problems of packaging. I can assure you that this interest is a very keen and practical one, for our economic survival depends on it. In our own company we produce annually over one billion individual consumer packages and we use at least 63 different sized bags, boxes and other types of containers to bring our total line of products to the consumer. These containers must be utilitarian, attractive and satisfactory to the consumer because, in the final analysis, it is her satisfaction that determines the success of our operations.

We at General Mills have carefully studied the subject matter of this bill and, while we fully agree that consumer interests are vitally important, we do not believe that this measure is necessary in order to accomplish the aims it professes. We believe existing laws already prohibit those misleading practices which this bill speaks against.

Indeed, we can talk from our own extensive experience in consumer relations because our own Betty Crocker receives some 30,000 letters a year and say that complaints regarding mispackaging or mislabeling hardly exist in our case. Still, if reprehensible practices occur in some quarters, what is necessary, in our opinion, is more effective administration of existing laws rather than the enactment of new ones. Such improvement -- where needed -- can be

effected at a lower cost to tht taxpaper than by the imposition of unnecessary additional laws, in our opinion.

It is our strong feeling, furthermore, that passage of this measure and the promulgation of regulations authorized by it would result in a substantial increase in cost to the consumer without commensurate benefits to her.

One further comment: The provisions of this bill will tend to impose upon our industry a standardization, uniformity and drabness which neither our general public nor I, with long experience in the military, would consider desirable. Indeed, just as the Soviets are finally becoming enlightened with regard to the tastes and role of the consumers in the economy, should we revert to Soviet uniformity and drabness?

I might mention in February -- I don't remember the exact date, there was quite an article on what is happening in this regard in the Soviet Union.

Although we consider the bill, in total, unnecessary and undesirable, in order to avoid repetitious testimony, I shall direct my comments toward two specific problems that could be created by this proposed legislation.

Our first basic objection to S. 985 centers on Section 3(c), which contemplates the creation of a super-Federal control over such an extensive and complex field as all consumer commodity packaging. We are not discussing packaging for Government or military consumption under duress

or mobilization circumstances, and we are not discussing a consumer market in war time, when rationing, belt-tightening, and cuffless trousers are certainly in order.

Neither are we talking about a situation where a consumer is being misled by improper markings as to weight or measure. What Section 3(c) proposes to do is go one step further and authorize an agency to dictate to the American economy in what size containers certain goods are to be packaged. Under this bill, Congress will pass on to a government agency the power to decide, by fiat, that breakfast cereals are to be packaged, for example, in 2, 4, 6 and 8 ounce containers, but not in 3, 5, 7 and 9 ounce containers. Moreover, the Congress will surrender to a Government agency extraordinary powers that will permit the agency to decide what shape containers should assume.

It can be argued, and validly, that Section 3(c) of the Bill is discretionary only and does not require that the Health, Education and Welfare Department and the Federal Trade Commission act as such super-regulators. Yet, I must urge that making such powers discretionary rather than mandatory does not cure the granting of this comprehensive and unreasonable authority to the agencies concerned. The hearings before the Senate Antitrust and Monopoly Subcommittee, considering the predecessor of this bill, did not, in my opinion, disclose facts to justify the granting

of such drastic discretion to the Health, Education and Welfare Department and the Federal Trade Commission.

Our basic principles of separation of power in Government between the legislative and the executive, as well as our dedication to a free-enterprise economy, an economy free of unreasonable powers to Government officials. One may argue that we should reserve our protest and objections until such time as these discretionary powers over weights and shapes are in fact exercised. When the hatchet is aimed at the very roots of our economic system, we cannot afford to wait until the chopping begins.

I submit that these provisions of S. 985 belie the intelligence and native keenness of the American consumer. I should like to repeat what I told an Executives' Symposium at St. Mary's College in California in February, 1965, on the subject of "The Executive Looks at Consumer Demand," and I will quote:

> "First, food is not only the largest of all industries but the most essential. We do not live by bread alone, but if we don't eat -- and eat to reasonable nutritional standards -- we do not live at all. The responsibility of those who produce and sell the Nation's food, therefore, is without parallel.
>
> "Second, the needs of today's families, especially of the homemaker who may have another job outside

the home -- make new demands of food products. To satisfy the consumer, it is necessary to supply not only good nutrition and good taste, but also ease of preparation, helpful, convenient and low-cost packaging and ideas to enrich family life in a day of unusual family stresses.

"Third, the vigorous competition of the food business makes satisfaction to the consumer the source of life itself to every grocery manufacturer. Watch a homemaker as she pushes her shopping cart through the market. She looks; she thinks. She picks this product, rejects that.

"On her decisions hang the profit and loss of food processors, wholesalers and retailers, big and little, individual and corporate. On those decisions, also, depend the jobs of millions from the fishing fleets of California, across the wheat fields of the Great Plains to the truck gardens of New Jersey. What she buys and does not buy affects the livelihood of those who toil with brain and brawn -- from lawyers to lithographers, from porters to pressmen -- and, I might add, to company presidents.

"Mrs. Homemaker is truly our boss. For efficiency, we talk with her through the channels of mass communication; newspapers, magazines, radio, television, and

packages. But always we address her as an individual. When we are skillful, we gain her attention. Not until we meet her demands can we depend on her marketplace decisions through the months and the years.

"Talk with her we can. But satisfy her we must."

Standardization cannot be compelled where the free forces of our economy, consisting of the consumers' tastes and desires, as well as the industry's ingenuity with regard to both the content of the product and more utilitarian and attractive containers, demand variety.

Obviously, we in the industry seek standardization whenever possible, as a means of cutting down the costs of packaging. When standardization by type of product has been practical, our industry has already adopted such procedure.

One example is flour packaging, family flour packaging.

The flour milling industry supported the passage of a decimal weight bill by a number of state legislatures. Such requires that flour containers in the 5 pound to 100 pound range be of 5, 10, 25, 50 and 100 pound sizes.

With many of the prepared convenience foods, however, we believe that standardization of weights is not in the best interest of the consumer. For example, the amount of cake mix in a package must be such as to fit customarily available

pans in the kitchen. The amount must also be such as to require the addition of either one or two eggs by the homemaker, because it really is a little difficult to subdivide an egg. The mix must also call for customarily and conveniently measured amounts of liquid, such as a half or a quarter cup. Too much or too little of one of the ingredients will produce an unsatisfactory cake.

And believe me, we are working continuously in our kitchens trying to develop satisfactory cakes.

The number of ounces in a cake mix also depends upon the particular combination of ingredients used. For example, we might consider a mix designed to make a two-layer cake. We find 18.5 ounces ideal for a regular white cake, but that it requires 19.5 ounces of mix for spice and apple cake.

However, with a different formula, as much as 22 or 22 ounces might be required. And this is not a matter of whim. It is dictated in large measure by the ingredients and the sizes of cake tins in normal use.

In one instance, the amount selected represents the manufacturer's best judgment as to what is required to produce a satisfactory finished product with the utensils most likely to be used.

Now let us look at the packaging of breakfast cereals. Our company makes 12 different ready-to-eat cereals from four

basic grains, wheat corn, oats and rice, plus a variety of other ingredients,such as sugar, cocoa, shortening, et cetera. These cereals have different shapes and processing methods. They include flaked, puffed, fortified, pre-sweetened, and unsweetened. The combination of various grains, the method of processing, the cereal shape, and the choice of sweetening levels result in end products with widely varying densities. For example, it requires only 12.8 cubic inches of space for one ounce of Jets, but we need 21.3 cubic inches to pack one ounce of Kix.

Still, our company now uses one basic package in which we pack 12 different breckfast cereal products. The use of the same size package minimizes costs substantially. But because of the different densities of the products packed in this single package, the net weights may vary from 7 ounces for one low-density product, to as much as 10 ounces for the highest density product.

If we were required to package these cereals in standard weights, a revolution in plants in our manufacturing plants would be necessitated. An automatic packaging line can handle a package of just one dimension at one time. Presently, we utilize 33 packing lines for cereals, our muffin mixes and cookie mixes -- excluding the individual serving size packages for cereals.

In other words, that is for packages 2 ounces or under.

Standardizing these cereals around 8, 12 and 16 ounce packages we estimate would require a great number of additional package sizes, and there is an exhibit attached that you can look at, (Exhibit 1), and as a consequence, 21 additional packaging lines. Each of these would be in operation only a part of the time and idle the rest of the time, because our volume of business would not fully utilize so many additional packing lines.

In other words, we try to have our packaging lines balance with the consumer demand for the individual sizes and product.

A modern packaging line costs in the neighborhood of $250,000, or a total of approximately $5 million for the twenty-one additional lines. Additional plant space for housing these packaging lines would cost another $3 million, because we don't have the space in our existing plants.

This would be a nonproductive investment of some $8 million. Furthermore, our packaging material costs would be increased by about $1 million a year. All of this would mean an increased cost to manufacture our products and this cost would have to be passed on to the consumer.

If we were to stay in business and earn profits in order to reinvest in the business and there would be absolutely no off-setting benefit to the consumer that we can see.

These calculations have been based only on cereals,

muffin mixes and cookie mixes. We have a number of other lines of products which would be similarly affected, to say nothing of new products currently in development, some of which are already in test markets.

The present system of packaging permits manufacturers to best respond to the market's demands. In other words, a manufacturer has the opportunity to select the minimum number of package sizes for his products which will least confuse the consumer, avoid the problem of "slack fill," and sell in the marketplace. Under S. 985, a government office in Washington could dictate sizes, with volumes of correspondence, hearings, and official orders being required to change the weight or the size of an innocent box of cereal.

We should also remember that many product packages are sized according to servings or how they are used, rather than weight. Regarding many products, the idea of a homemaker dividing price by ounces in my opinion is somewhat of an anachronism. Our creamy frosting mix weighs twice as much as our fluffy frosting, but both will cover the same size cake. It is the personal preference that determines the choice, not the cost per pounce. There is a difference in weight and volume between flake and puffed cereals. Servings vary so greatly between these two types cereals that the theory of picking the best value by dividing price by weight simply does not work.

Similarly, the housewife selects a cake mix because she thinks her family will like it, rather than because it weighs the most for the money spent. We submit that the basic assumptions of S. 985 are wrongly founded on an economy that just is not ours.

I doubt that this preoccupation of S. 985 with cost per ounce represents the American homemaker, because of the thousands of letters our Betty Crocker received the past year, none as far as I can determine was concerned with the problem of price per ounce.

I did have a letter on the other hand from a physicist who said that he wasn't fast enough to work it out but if you understand the densities are different in these products, well, you can understand it would be meaningless anyway.

No, it is not the housewife, the regular, well-aware consumer, who is concerned, but only the occasional buyer, the person say a hurried husband -- and I find myself in that category once in a while -- or a theoretical economist, who gets into the supermarket infrequently to be astounded by the variety of food riches from which he may choose, some 8,000 individual items in today's supermarket.

He goes back to the point of reference of his childhood when shopping was a lot easier, if less rewarding. He remembers that he got a slab of cheddar cheese at so much

per ounce, a pound of butter at so much, several pounds of bulk sugar, bulk flour, bulk lard, bulk beans, bulk coffee, all at identifiable cents per pound and all in separate paper packages tied with a string and price marked on the outside.

Perhaps he could recall the staggering task it used to be to convert the mass of prices per pound into a meaningful price per meal. This required guessing at how many ounces of lard went into the pie crust. It called for estimating how many ounces of sugar and butter and all the rest would be used, and converting the many cents per pound into cents per ounce used, then figuring the total cost of fuel, value of mother's three-and-a-half hours of time spent preparing the meal, and a few other odds and ends.

The result was a wild estimate, much further off the track than the mistakes the homemaker may make in the supermarket today. When she buys a cake mix, a casserole dinner, and a can of soup and refrigerated fruit salad, she knows the total ingredient cost of the night's meal just by watching the cash register.

The information she now easily gets is much more meaningful in my opinion than the old per-ounce figure that this bill is sadly trhing to restore. It would be less than satisfactory to today's enlightened consumer if she were forced back to the "good old days of stringed packages and cents per pound."

Our second major concern with this bill stems from the proposed prohibition of promotions contained in Section 3(a)(5). This, for example, would prevent General Mills from occasionally offering such products as Bisquick, Gold Medal Flour and Betty Crocker cake mixes, or in introducing new products, at reduced prices to be passed on to the consumer.

We are convinced that such a prohibition would be a mistake, not only from our point of view as merchandisers, but also from the point of view of good economics. Such promotions stimulate the economy, encourage the introduction of new and improved products into the marketplace, and work no disadvantage on the consumer.

All companies use these promotions to increase turnover of product and volume. When these special sales occur, the consumer benefits because she is able to take advantage of the promotion and stock up on a product. Why should this channel of advertising through bargain promotion be discriminated against?

Let us examine why the bargain promotion is used by business today. It is one of the most effective means by which a manufacturer persuades the consumer to sample his product. Maintenance of a quality product requires constant quality improvements, many of them small but significant in the aggregate.

The best way to call these improvements to the attention

of consumers who may have defected from the product, and new consumers who come into the market every day, is the bargain promotion such as coupons and cents off. For a time you offer the product at a lower than normal manufacturer's margin to induce sampling by those who do not regularly buy it, hoping that some will remain loyal when the price goes back to its regular level. If the product satisfies the consumer, many will remain loyal. If they don't, the promotion is a failure and we have done a poor job.

One further undesirable aspect of the prohibition against promotions is its discrimination against manufacturers producing advertised brands. The large chain stores who package their own products will have an unfair advantage because they will be able to use "cents off" or other promotions on their private labels.

As we understand the language of the bill, there is no safeguard against this disparity; local managers of chain stores would merely need to give their main office instructions to mark "cents off" on private label merchandise. Thus, a small reduction in a private brand price could be shown on the label, while a larger cut in an advertised brand price could not. The producers of competing advertised national brands would thus be at a disadvantage.

Senator Lausche. Just one moment. Is this statement of yours the combined judgment of your legal advisers that

under the bill the manufacturer of a brand of his own who sells it in his own market would be allowed to have a "cents off" program?

General Rawlings. Yes, sir. I am advised by counsel that that is so, and Mr. Finn, our General Counsel, is here, if you would like him to respond to that question.

Senator Lausche. Not at this time. Go ahead.

Well, the counsel for the staff confirms that to be a fact, that the general merchant who buys from a processor would not have the right to sell in a "cents-off program.

General Rawlings. Sir, I have a little more on this.

Mr. Pertschuk. The retailer can sell at "cents off" but the manufacturer cannot put the "cents off." The manufacturer who sells to a retailer cannot put the "cents off" on his packaging.

General Rawlings. That is correct. I have a little more on that subject that may help clarify this point.

Senator Lausche. Proceed.

General Rawlings. As a result, S. 985, originally promoted as encouraging competition, would in fact serve to reduce competition.

Private label products would, themselves, eventually suffer because of the damage to the advertised brands. This is the case because of the special relationship between

advertised and nonadvertised brands which I want to bring to your attention. Advertised national brands break the ground for new products. Normally, new products require a premium price because of the research and promotional expenses necessary to bring them to market. Private label brands follow the advertised brands.

I do not mean that there are not private brands of very high quality. There are. But it is cheaper, less costly, to be a follower rather than a leader.

We in my company spend a number of millions of dollars a year in research searching for new products and very often after we have them in the market-place they are followed by private labels who have none of the costs of this research.

The important point is that, together, private and advertised brands give the consumer real protection in the market-place. Private labels are tough competitors and give advertised brands healthy price competition. But private brands would not exist in their present flourishing good health if their advertised brothers were not leading the way.

General Mills is a relatively large company -- I would like to make it larger -- with an extensive promotion and advertising program. Such promotions are valuable tools for us, but we firmly believe that the prohibition of these promotions would present an ever more serious obstacle

to many smaller manufacturers. These companies usually have limited promotional funds, but are able to use promotions such as "cents off" to stay competitive. These promotions are easily scaled to the desired objective and seldom burden the manufacturer with unanticipated and maybe disastrous costs.

Let us urge in summary:

This Bill in my opinion represents a number of unnecessary and unwarranted intrusions by Government into the food manufacturing business, under the guise of protecting the consumer from deception. This bill is not satisfied with the clear and prominent marking of size and weight, despite the fact that some 97.8 percent of the country's population fourteen years old and over can read and write. We read carefully the letters of our consumers and know that package sizes are not their problems. We are convinced that S. 985 would result in increased cost, which would ultimately be reflected in higher price to the consumer if we were to stay in business.

We have found that the American homemaker is a shrewd, careful buyer, and we believe that existing laws provide all the safeguards she needs. The dissatisfied and disgruntled consumer has the ultimate recourse of buying a competitive product the next time. The free-enterprise economy, we should remember, is self-correcting in this fashion.

S. 985, instead of helping the consumer, in our opinion,

will increase prices, reduce competition, and inhibit the introduction of new and improved products. It is time that instead of indulging in theoretical economics, we again reassert the vigors and truths of the competitive market. Even the Russians are beginning to do it.

I should here like to repeat what I have defined as the one basic truth of the food industry: The job of developing, producing, packaging, advertising and selling a product is never complete until the consumer is fully satisfied.

In our opinion, the present laws are sufficient to prevent any departure from this trust. The proposed law can hinder and impede. We respectfully urge your opposition to the enactment of this Bill.

Senator Hart. Good morning. I remember a pleasant visit some months ago that we had. I confirm on the record that one of your distinguished Board members talked to me and expressed his concern about this bill, and I know your own feeling.

Do you package anything that says on its face that it serves so many people?

General Rawlings: Yes, sir, we do.

Senator Hart. You disagree even with the section of the Bill that would authorize the regulatory agency to establish some objective standard as to what you mean when

you make a claim that it serves so many?

General Rawlings. Yes, and I will give you the reason. A serving means so many things to so many people that how a single Government agency would be smart enough to decide what the best size serving is is a little beyond me. I will tell you how we do it.

When we bring out a new product we go through the test market and one of the questions that we ask the consumer, and we run these consumer panels, is what they consider an adequate serving or how many people could be served from the particular package we have given them to test and you will be quite interested that it will vary sometimes from 2 to maybe 6.

In other words, taking a look at this panel, some people will come back and advise us that they think there are only two servings in this package and another will say they can serve six. Obviously all of us have a different requirement. We may have teenaged children growing rapidly and they will stuff down -- I have four boys and I know what they do -- so it is a very difficult problem.

But we try to be honest about it. We try to establish what we think most of these consumers think is the proper number of servings for the particular package that we put out.

Senator Hart. I am not suggesting that there is any

dishonesty. Just what are you talking about when you put that suggestion on the label? It is not that the Bill -- and it is not the intention of the authors of the Bill to suggest that Government has some infinite wisdom that will be able to define what a serving is in the minds of everybody. It simply is to acknowledge what I think is a fact, that neither you nor I nor anybody else can tell how many servings any package of your product will provide each family.

General Rawlings. I understand.

Senator Hart. So why would it not be better, for me, with eight children, you with four, and somebody with nine, to be confronted by a package which, if you are going to make a claim that it serves so many, has been established to mean precisely "X" or "Y" number of plates it will fill, even though that does not satisfy me that it is my serving total.

But there is an objective, established meaning given to this otherwise vague and subjective claim "serving." Why does that not make sense?

General Rawlings. I understand what you are talking about and it seems to me that the establishment of this type of standard by a Government agency regulation is an unnecessary device.

I mean, if we were misleading, believe me, if we put on

a package that it will serve four and the housewife finds it only serves two in her family, why, she will complain about it and she will not buy that package again if there is another package that will serve four.

I think before you came in we pointed out that we got about, this last year, for example, we received about 30,000 letters addressed to our Betty Crocker, who, you know, is an image of when we think of good living and good food, et cetera, and I have no knowledge of any complaint on the ounces question or on the size of the package. They are generally suggestions, some are critical once in a while. You have a "slack fill" or something will happen, but in general the number who were derogatory out of that--I think we actually have figures on that right here--is just practically nothing, and you can be sure if they do complain we are right on the ball and believe me, we do something about it fast.

But again, another figure that I do not believe you heard, we produced about a billion individual packages, consumer packages, a year in General Mills.

Obviously, once in a while something will go wrong with one of these packages.

In my own experience, for example, where I find a cereal package in one of the local grocery stores that did not have a single piece of cereal in it, how it got

that far I cannot tell you, except this: In the packaging line we have weighers that automatically weigh the quantities going into the package, we weigh the case to come within tolerance of what it should weigh with the 24 packages in the case, but, after all, there are a few human beings around and once in a while one will slip by, but it is not bad when you consider we turn out some billion individual packages in a year, so I don't think we have a serious problem. This is all I am trying to say.

Senator Hart. Well, I am not Betty Crocker either, but I got some mail on this.

General Rawlings. I am sure you do.

Senator Hart. And they enclose labels like this and say "What does it mean?" This one says, "Average serving 7." The other one "Serving 7 portions," and they say "I discovered that it had only 4 halves in it and very frankly I don't remember what the comment was.

General Rawlings. On that, you don't have one of ours, but maybe you have.

Senator Hart. I suggest that there may be greater concern or frustration or irritation among consumers confronted with this claim that it serves so many, washes so much, than your Betty Crocker index would suggest.

General Rawlings. I would not want to suggest for a moment that there may not be complaints, but generally I

think you will find that if a consumer is not happy with a manufacturer, she tells him, so we are pretty sure we get most of them.

Obviously I am not qualified to talk about any products other than the food products of the type that we handle in General Mills, and in this situation, the way I have described it, appears to me to be the most reasonable to protect the consumer, to give her the kind of product that she wants and likes at what we think is a reasonable and fair price.

Senator Hart. Well, our purpose, those of us in introducing the Bill, is to give her the kind of information that will enable her to respond intelligently to the attractive products that you put on the shelf.

General Rawlings. Sir, I think some of these objectives we are talking about, this is not what is bothering me. What bothers me is that there are so many that are undetermined where the agency can decide and the Congress has given away its right to an agency to set up some of these standards.

Senator Hart. We, for example, direct the agency to see that the quantity and content be put on the front of the package. You don't object to that, do you?

General Rawlings. We do that now. It is provided for in existing law. We do not.

Senator Hart. It is not provided for under existing law.

General Rawlings. I think the way the law reads, if the law were enforced, if it is misleading in any respect, the existing law takes care of it, and if this is misleading, why, they certainly have, if I understand it correctly, they can take action. We talked with Food and Drug on the problems. We worked out many problems with them right along.

Senator Hart. Well, let me nail this one down. You do put the quantity on the front of your box, do you not?

General Rawlings. Yes, sir. We have some packages right here.

Senator Hart. We have breakfast food galore.

General Rawlings. They do not have any in them. They are blank.

Senator Lausche. Senator Hart, for the purposes of the record, Section 403 of the Federal Food, Drug, and Cosmetic Act provides "A food shall be deemed to be misbranded if in package form unless it bears a label containing the name and place of business of the manufacturer,_____ distributor, and an accurate statement of the quantity of the contents in terms of weight, measure or numerical count."

I take it that that is what you are referring to.

General Rawlings. Yes, sir.

Senator Hart. Well, that law has to be read in light of the interpretation the courts have given to it, and the F.D.A. brought action against a product that was

marked so far as the quantity designation was concerned in gold on green glascene background and it was not even on the front of the package, and the court held that that was not misleading.

So that is the kind of guidepost that you are talking about following.

Now I suggest that that is a rather erratic course to follow and that it would be preferable to require that it be on the front and in plain black and white.

General Rawlings. Again, sir, it seems to me that this is provided for under existing law --

Senator Hart. General, I just told you how a court interpreted existing law.

General Rawlings. After all, we can't tell what the courts will do but the court must have considered all the evidence. In this case they must not have had a satisfactory case for some reason.

Senator Hart. You are talking about Congress giving away rights. Congress can react to that kind of court decision and this Bill is suggesting that this is the kind of reaction I think makes sense, to put it on the front, just as you do.

General Rawlings. I am sorry. I have to disagree, sir.

Senator Hart. You do agree, that on the front is good.

General Rawlings. Oh, yes.

Senator Hart. And that is what this Bill would require and I think it makes sense.

General Rawlings. Just so we don't misunderstand one another here.

Senator Lausche. Thank you very much for your testimony, General Rawlings.

Anything further you desire to say?

General Rawlings. May I go off the record?

(Discussion off the record.)

Senator Lausche. On the record.

General Rawlings. Thank you very much.

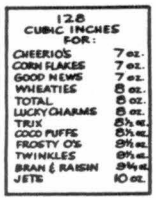
End (Exhibit 1 to the statement follows:)

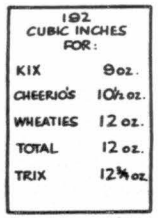
EXHIBIT I

PACKAGE SIZE REQUIREMENTS IN CUBIC INCHES FOR CURRENT CEREALS, INDIVIDUAL SERVINGS EXCLUDED.

AT PRESENT

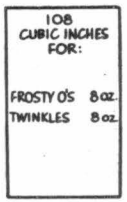
3 BASIC SIZES

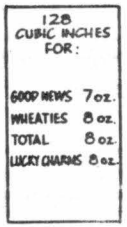


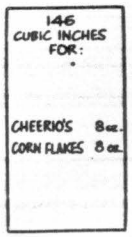


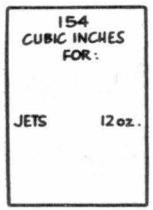
UNDER S.985

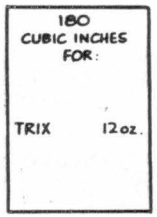
12 BASIC SIZES

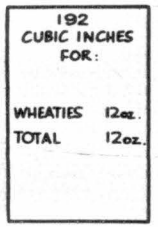


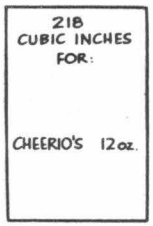


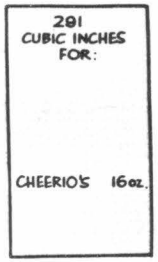












INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA

NEWS from UAW

8000 East Jefferson Avenue, Detroit, Michigan 48214 Public Relations Department, Joseph Walsh, Director Telephone: Area Code 313, 926-5291

For Release: FROM UAW WASHINGTON OFFICE, 1126 Sixteenth Street, Northwest, Washington, D. C. 20036, Phone: EXecutive 3-7761

P.M. PAPERS, FRIDAY, JUNE 11, 1965

Mimi - FYI J

[The following release is being issued simultaneously in Detroit and Washington]

REUTHER URGES

REPEAL OF 14B

Labor + public Welf. Cte

WASHINGTON---Walter P. Reuther today called on Congress for the "immediate and unqualified repeal" of Section 14b of the National Labor Relations Act.

Reuther, president of UAW and the Industrial Union Department of the AFL-CIO, outlined his views in a statement submitted to the Special Subcommittee on Labor of the House Education and Labor Committee.

File

He said the section of the law, which permits a state to ban a union and employer from voluntarily agreeing to a union shop, "constitutes a cynical 'states' rights' surrender of human rights and Federal power over national labor relations."

Reuther pointed out that 14b had been rejected by the great majority of states and people; that it does not serve as a protection for the "principled objector" but only as a haven for the free rider; that it is the symbol of state and local anti-unionism, and that it is the "segregationists' weapon for alienating workers by allegiance and race.

"For 18 years," he said, "this provision has served only to disrupt and divide without achieving any justifiable public purpose."

He also attacked the attempt by "some Congressmen" to "burden the repeal of this provision with riders on the subject of civil rights."

-more-

Reuther noted that prominent civil rights leaders had also voiced opposition to the "so-called civil rights rider." These included, he said, Dr. Martin Luther King, Jr., Roy Wilkins, A. Philip Randolph, James Farmer and Clarence Mitchell.

"Of course," Reuther explained, "in opposing a hamstringing rider, we do not for a moment condone racial discrimination by labor unions any more than by employers.

"The answer to that problem was thoughtfully and correctly given by the Congress only last year in Title VII of the Civil Rights Act of 1964 which deals specifically and, we hope, adequately with the problem of racial discrimination in labor relations."

Finally, Reuther recommended that "Congress should promptly prescribe that the reasonable union security standard it approved in Section 8a3 of the National Labor Relations Act shall now apply uniformly throughout the nation without further discrimination or distinction between different states of the union.

"We call for the immediate and unqualified repeal of Section 14b."

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The complete text of Mr. Reuther's statement is attached.

STATEMENT

submitted to

Special Subcommittee on Labor of
House Labor and Education Committee

June 11, 1965

-oOo-

by

WALTER P. REUTHER

President

Industrial Union Department of AFL-CIO

and

United Automobile, Aerospace, and
Agricultural Implement Workers of America,
International Union, AFL-CIO

On behalf of the approximately six and one half million industrial workers organized in the Industrial Union Department of the AFL-CIO, and on behalf of the million and a half members of the International Union, United Automobile, Aerospace and Agricultural Implement Workers, I take this opportunity of stating our strongest support for repeal of Section 14(b) of the Taft-Hartley Act. The trade union movement is united in its determination that Labor Day 1965 will celebrate the end of this iniquitous provision.

Section 14(b), enacted 18 years ago, permits a state to prohibit a union and an employer from voluntarily agreeing to a union shop and constitutes a cynical "states rights" surrender of human rights and federal power over national labor relations. Section 14(b) is a shabby symbol of anti-unionism, a legalized shelter for the free rider's "right to shirk". This haven for anti-union employers, must, at long last, be stricken from our federal law.

The UAW and the IUD welcome the forthright recommendation of President Johnson for repeal of 14(b), thus implementing the pledge of his Party Platform in 1964 and his own promise "to reduce conflicts that for several years have divided Americans in various states". I will briefly outline the salient reasons requiring a repeal by this Congress of Section 14(b), and briefly examine the so-called "civil rights" amending rider which has been advanced by those seeking to side-track repeal in a blind alley.

14(b) Rejected by Great Majority of States and People

In the 18 years since this provision was enacted, every state has had ample opportunity to decide whether to use the escape hatch of Section 14(b) from the federal policy permitting the union shop and lesser included forms of union security (agency shop, maintenance of membership, etc.). It is now clear that the firm majority will in the states and among the people of our country rejects Section 14(b), and approves various forms of union security, including the union shop, which Congress itself in Taft Hartley found fitting and proper for incorporation into a collective bargaining agreement between the union and the employer. Today only 19 states find it proper to utilize Section 14(b), whereas 31 states continue to reject it and to abide by the national standard which outlaws the closed shop but permits the union shop. Moreover, if we translate the state figures into population figures, it is revealed that nearly three-fourths of the national population resides in the states which have rejected the opportunity under Section 14(b) to outlaw the union shop. Thus, 311 members of this body, representing 71% of the House, reside in states where the federal policy authorizing the union shop continues unimpaired by the state restrictions.

All apart from the merits or demerits of Section 14(b) -- and the demerits are clear -- we submit that the view established during the 18 years since Taft Hartley shows that Section 14(b) has not won majority approval. In a nation and a political system predicated on majority rule, this alone should suffice for Congress to repeal a loophole in federal labor policy originally enacted in a wave of anti-union sentiment.

Section 14(b) -- Not a Protection for the Principled Objector

As the experience of nearly two decades proves that Section 14(b) is rejected by the vast majority of our states and our people, it also proves that the provision is not the protector of the principled objector to unionism it was once supposed to assist. Thus, there has been much loose talk about "compulsory unionism" where the union shop prevails; "compulsory unionism" is a total misnomer. The fact is that under a federal court decision of 1951 (Union Starch and Refining Company v. NLRB, 186 F. 2d 1008), a union shop contract may require all employees to pay dues needed for the operation of the union and its performance of its legal and contractual obligations, but no employee may be forced to join the union and participate in any form of union action if he has conscientious scruples or personal objections thereto. In recognition of this import of the Taft-Hartley Act, the standard UAW union shop contract provides that the employee shall be a member of the union only "to the extent of paying his monthly dues". And even beyond this limitation, in recognition of genuine moral scruples in individual cases, there exists a special agreement between the UAW and religious groups, (see attached memorandum) permitting their members working at "union shop" plants to contribute to the support of the union's charitable and welfare services in lieu of paying dues and initiation fees, and recognizing their right to abstain from "attendance at meetings and other union activities".

In sum, the pre-Taft-Hartley argument about compulsory unionism has proven to be illusory because under the 1947 law no employee in any state of the union may be required on pain of discipline or discharge to participate in any union activity whatever if he does not desire to do so. Thus, what Section 14(b) protects, and all that it protects, is the "free rider".

Section 14(b) Supports the "Free Rider"

The evil of a system of "representation without taxation", whereby free riders without paying a penny get the benefit of the union's collective bargaining, its strike efforts, its grievance procedures and the other benefits of organized employee strength, was recognized even by Senator Taft in his noted reference to the Canadian "Rand Formula", which Congress approved in Section 8(a)(3) of Taft-Hartley. As Senator Taft put it:

> "I may say that the argument made for the union shop and against abolishing the closed shop, is that if there is not a closed shop those not in the union will get a free ride, that the union does the work, gets the wages raised, then the man who does not pay dues rides along freely without any expense to himself. Under the Canadian rule, and under the rule of the committee, we pretty well take care of that argument" . . . 93 Daily Cong. Rec. 5089 (May 9, 1947) 2 Leg. Hist. 1422.

May I say too, that this business of the free rider is of immense concern to the ordinary worker who responsibly pays his share for the support of the union democratically chosen by the majority of all the employees to represent all the employees. As I explained to Senator Mundt during hearings of the Senate's Select Committee on Improper Activities in the Labor or Management Field (85th Congress, 2d Session, Part 25 at 10103):

> "The pressure is from the membership. I have seen situations where the fellow says, 'We would rather have the union shop to make this handful of free riders pay their fare than we would like a wage increase.' When you talk about the labor bosses doing these things, you are just kidding yourself. The pressure is from the rank and file, the guys who are paying their fare want everybody to pay their fare."

And the fact is that the employee in the organized shop enjoys better and safer working conditions and he has far more job security than does the employee in the nearby competing non-organized shop. A study (see 8 Ind. & Lab. Rel. Rev. 253) of 500 union and non-union plants in eleven southeastern states shows that the union plant has greater fringe benefits in the form of pension plans, insurance plans, credit unions, and lunch rooms; that the union plant takes more precaution in the employment of its workers; that it insists upon compliance with safety precautions; and that the union plant is much more apt than a non-union competitor to have a promotion and lay-off system based on seniority and to have procedures with established steps to permit employees to air grievances. Achieving and maintaining these benefits costs money which comes from union dues. But these benefits are available to each and every employee, whether or not he pays union dues, as the union is required by law to represent non-members without any charge and "without hostile discrimination, fairly, impartially, and in good faith". Consequently, in the absence of a union shop agreement, there are employees who refuse to join the union and yet enjoy the benefits of working in an organized plant. These "free riders" naturally are resented by the dues-paying union members and this resentment ferments a demand for an agreement requiring all employees to pay for the benefits they receive.

The results of federal and state elections requiring member consent to the union shop contract bear this out. All but a handful of participating

employees voted to authorize their union to negotiate union shop agreements. In the first year of voting under the Taft-Hartley Act--approximately 2,000,000 employees were concerned--98% of the elections resulted in favor of the union shop agreement, and only 4% of the employees voted against the union shop. A New Hampshire law requiring a vote by employees prior to the negotiation of a union shop agreement brought similar results.

The resentment by dues-paying union members, usually steady workers who have achieved skill, social recognition, and interest in their job conditions, is due in large part to the fact that the "free rider" is only too often a transient worker. Although the rate of labor turnover is high, it is caused by the activities of a minority of the labor force. A survey of tool and die makers, for example (78 Monthly Labor Review 772), shows that sixty percent of the job changing was done by fourteen percent of the workers. The permanently employed union members feel that these transient employees should pay their share of the costs for maintaining the conditions which drew them to the plant with the union wages and decent working conditions.

Section 14(b) A Haven for Anti-Unionism

If, as we have emphasized, the majority of our states and people have rejected Section 14(b) in the years since its enactment, and if that section is not the protector of the "principled objector" to unionism but actually provides shelter for the free rider who wants representation without taxation, then what purpose does Section 14(b) actually serve? The answer is found in the fact

that the 19 "right to work" states which ban the union shop under Section 14(b) are the very states where there is the least organization of workers, and where labor standards are the lowest. A clear purpose of the right to work laws is a state advertisement to employers in industrial states to bring their business where officialdom is hostile to unions. "Right to work" legislation is a symbol of the state's hostility to the basic duty of collective bargaining with the majority representative of the workers, which has been the public policy and the federal obligation since the Wagner Act of 1935. For instance, none of these 19 states matches the federal minimum wage of $1.25 in their state minimum wage legislation. Only two of them provide even a minimum wage of $1.00 an hour; 11 have no minimum wage law at all. By contrast, 23 of the states which have rejected 14(b) have enforceable minimum wage laws, with 21 providing at least $1.00 an hour, and 12 equaling or exceeding the federal $1.25 level.

It is no accident that the "right to work" states--mostly Southern and border states--are precisely the ones wherein employment conditions and employee protections under law are the poorest and the most backward. In these states, anti-union employers wielding disproportionate political power have persuaded the legislature (often a malapportioned and unrepresentative legislature at that) to prohibit the union shop agreement. They seek the protection of a legal prohibition, fearing that the will of the workers for union organization and union security will otherwise be too persuasive to withstand

a union security contract. Thus employers hide behind the legislative ban they themselves have procured, to say to the workers: "I know you want me to sign a union security agreement, but the state law prohibits me from doing so."

Union organization, union security and employee solidarity are thus restricted through the political power of a minority which would resist decent labor standards at all costs. Indeed, often the employer and his "community development" associates in the "right to work" state turn around and brazenly solicit business from other states with decent employment standards, with the promise that wages will be kept low for the manufacturer who moves to the state. By this means, the symbol of anti-unionism which Section 14(b) permits, becomes an instrument for depression of labor standards and continuing piracy of business and manufacture from the states abiding by decent federal norms of union security, minimum wage and fair employment standards. We say in all candor that a vote in this Congress by a Representative from one of the 31 non-"right to work" states, is a vote for the continued piracy of business and manufacture from his state to the sub-standard and anti-union "right to work" area.

The Need for a Uniform National Standard

These observations also demonstrate the necessity for returning to a uniform standard of union security under federal law, without distinction between one state and another. Section 14(b) is unique among federal laws

governing business, industry and labor, in its surrender of a federal policy--approval of the union shop--in any particular state which chooses to reject the federal standard. The evil of such a surrender is certainly shown by the invitation which it extends to states to reduce and restrict union solidarity and employee strength and thus to maintain a competitive advantage over sister states in appealing to manufacturing and industry.

Moreover, the double standard which is thus created and the divisive conflict between states which is thus promoted is not all. It must also be recognized that today we have many major national industries as distinguished from the single state or single locality employer of former years. For instance, UAW contracts with large manufacturers often encompass workers in numerous states, extending all the way from the Eastern to the Western shores of our nation. Yet the effect of 14(b) is to prevent a uniform contract provision with such an employer for all of the employees. Refined distinctions must be made to encompass the varying limitations on union security which one or more of the states involved have chosen to enact. Thus not only does Section 14(b) emasculate a uniform national standard as between the states, but it often prevents a uniform standard as between a single union and a single employer.

The solution, we submit, is simple. Congress should make up its mind about the union shop. Congress approved the union shop in the Taft-Hartley Act and it should set a uniform national standard applicable in every

state, not just in the majority of states which have chosen to abide by the federal policy. Congress can no longer surrender national policy to nullification in a minority of states motivated by the disproportionate political power of anti-union elements.

Section 14(b) Is the Segregationists' Weapon

In concluding our presentation to this Committee, it seems appropriate also to mention the relationship between §14(b) and civil rights, particularly because some Congressmen have stated their intention of burdening the repeal of this provision with riders on the subject of civil rights.

It should first be noted that §14(b) does not protect but rather impairs minority and Negro rights to employment and collective bargaining. As Roy Wilkins, the able Executive Secretary of the NAACP, has said it: "The nineteen states where the 'right-to-work' fraud is now in force are the states where the Negro has had to struggle hardest against the forces of bigotry, discrimination and segregation." Or as A. Philip Randolph, President of the Brotherhood of Sleeping Car Porters, has said, the real aim of the open shop supporters protected by §14(b) is "the hope of driving a wedge between Negroes and the labor movement. We must not let it happen." It is no accident that the stronghold of "right-to-work" is found in the deep South--in the very same states which resist Negro rights in every other area of public life as well as in employment. Dividing the workers into unionist and anti-unionist

camps by "right-to-work" legislation goes hand in hand with the effort to divide them into hostile white and Negro work forces.

Accordingly, it is no surprise that the present effort to hamstring repeal of §14(b) with "civil rights" amendments is unsupported by friends of civil rights. Clarence Mitchell of the NAACP, testifying to this Committee for Roy Wilkins, A. Philip Randolph, James Farmer and Dr. Martin Luther King, flatly opposes the so-called "civil rights" rider, noting that he is not "deceived by things done up in pretty wrapping paper". Just as every real supporter of civil rights lined up in the Senate in 1951 against the "Jenner Amendment" effort to hamstring the Railway Labor Act union shop with "civil rights" (see 96 Cong. Rec. 17241), enlightened members of this Congress will vote against an effort to burden the return to a uniform union shop under the National Labor Relations Act.

Of course, in opposing a hamstringing rider, we do not for a moment condone racial discrimination by labor unions, any more than by employers. The answer to that problem was thoughtfully and correctly given by the Congress only last year, in Title VII of the Civil Rights Act of 1964, which deals specifically and, we hope, adequately with the problem of racial discrimination in labor relations. If that legislation, which goes into effect this July, proves inadequate, Congress should and will strengthen it. But the hollowness of the present effort to attach a "civil rights" rider to the repeal of §14(b) is exposed when it is seen that precisely those members of Congress who in 1964 voted

against the careful and comprehensive regulation of employer and union discrimination will be pretending to protect Negro rights by voting for "civil rights" amendments to the repeal of §14(b).

* * * * * *

To recapitulate: §14(b) has been rejected by a great majority of states and our people; it does not serve as a protection for the "principled objector" but only as a haven for the free rider; it is a symbol of state and local anti-unionism, and is the segregationists' weapon for alienating workers by allegiance and by race. For eighteen years this provision has served only to disrupt and divide, without achieving any justifiable public purpose.

This is the time for building the Great Society, not for perpetuating past mistakes. We cannot go forward burdened by such excess baggage as the "right-to-work" fiction. Congress should promptly prescribe that the reasonable union security standard it approved in §8(a)(3) of the National Labor Relations Act shall now apply uniformly throughout the nation without further discrimination or distinction between different states of the Union.

We call for the immediate and unqualified repeal of Section 14(b).

Solidarity House
8000 EAST JEFFERSON AVE.
DETROIT 14, MICHIGAN
PHONE LORAIN 8-4000

COPY

INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA-UAW

WALTER P. REUTHER.....PRESIDENT
EMIL MAZEY.....SECRETARY-TREASURER
RICHARD GOSSER.....VICE-PRESIDENT
NORMAN MATTHEWS....VICE-PRESIDENT
LEONARD WOODCOCK..VICE-PRESIDENT
PAT GREATHOUSE.....VICE-PRESIDENT

EM 46

TO ALL FINANCIAL SECRETARIES, UAW-

RE: Agreement between UAW and the Seventh Day Adventist, Mennonite, Old German Baptist and Brethren in Christ Churches.

Greetings:

On April 28, 1957, the International Union entered into an Agreement with the Council on Industrial Relations of the Seventh Day Adventist Church which provided the following:

1. A good standing member of the Church - certified as such by its Council on Industrial Relations - was relieved from attendance at meetings and other union activities without prejudice to his employment in plants under our jurisdiction.

2. In lieu of payment of initiation fees and dues, said Church member was to pay a sum of money equal thereto for the purpose of carrying on charitable and welfare services of the Local and International Union.

3. Said Church member would refrain from interfering with or resisting any union laws or activities.

4. In case of strike, such Church member would not remain at work nor would he actively participate in the strike by performing picket duty, etc.

The International Executive Board authorized a similar agreement between our Union and the Committee on Industrial Relations of the Mennonite, Old German Baptist, and Brethren in Christ Churches. Members of these Churches will hereafter be accorded the same privileges and rights as Seventh Day Adventist Church members.

Financial Secretaries are to forward to the International Union an amount equivalent to what they would normally forward for per capita tax and initiation fees from the sum of money donated by these Church members.

Secretaries of the Church Councils will issue appropriate cards which are to be signed by the individual and by the Church Secretary. These in turn are to be presented to the Financial Secretary of the Local Union having jurisdiction over the plant in which said Church member works.

I am enclosing a sample of the card which the Local Union will issue him in lieu of a regular membership card. In the event you need any of these cards, you may obtain them from the Supply Department of the International Union by ordering same on the regular Order Blank.

Fraternally yours,

Emil Mazey, Secretary-Treasurer
By Order of the International Executive Board

EM-JF:se
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7-18-60

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Jill
Leg Program
Via Sally
Eileen Cong

MEMORANDUM

June 3, 1965

TO: THE VICE PRESIDENT

CC: BILL CONNELL
JOHN STEWART
TED VAN DYK

FROM: RONALD F. STIENETT

RE: JUNE 3 REPORT ON THE STATUS OF THE PRESIDENT'S LEGISLATIVE REPORT

Attached is a detailed report on the status of the President's legislative program up to June 3.

Only those bills recognized as part of the President's program are included in this report.

I am sending copies of the report to: Bill Connell, John Stewart, Ted Van Dyk, Larry O'Brien, Bill Moyers. If you would like to send them to anyone else, please let me know.

JUNE 3 REPORT ON THE STATUS OF THE

PRESIDENT'S LEGISLATIVE PROGRAM

THURSDAY, JUNE 3, 1965

Bills in the President's program which have become law:

1. Agricultural Supplemental Appropriations - $1.6 billion
2. Repeal of a 25% Backing on Gold Cover
3. Aid to Appalachia - $1.1 billion
4. Inter-American Development Bank Increase in Contribution
5. Elementary and Secondary Education Bill - $1.3 billion
6. Tobacco Acreage-Poundage Marketing Quotas
7. Coast Guard Authorization - $114.2 million
8. Manpower Training Act Expansion
9. Second Supplemental for 1965 - $2.227 billion
10. Vietnam Supplemental Appropriation - $700 million
11. Food Marketing Commission Extension
12. Chancery in Saigon - $1 million
13. Implementation of the Coffee Agreement
14. The Disarmament Act - 3 years at $30 million
15. Atomic Energy Commission Authorization

16. Bureau of Customs Reorganization - Plan No. 1 effective May 25, 1965

17. Quota Increase in the International Monetary Fund

18. Military Procurement Authorization

19. Interior Appropriations - $1.230 billion

20. Older Americans Act

Bills in the President's program now in conference:

1. S.J. Res. 1 - Presidential Inability

2. S. 21 - River Basin Planning

3. S. 510 - Community Health Services Extension

4. S. 1229 - Federal Water Project - Recreation Act

5. S. 4 - Water Pollution Control

Bills in the President's program which have passed the Senate but not the House:

1. S. 22 - Water Research Act Expansion

2. S. 28 - Stockpile Management and Disposal

3. S. 306 - Clean Air Act - Solid Wastes

4. S. 491 - Bighorn Canyon Park

5. S. 507 - V.A. Distressed Home Owners' Relief

6. S. 1135 and H.R. 4623 - Reorganization Act Extension

7. S. 1564 and H.R. 6400 - Voting Rights Act of 1965

8. S. 2054 and H.R. 5876 - Peace Corps Authorization - 1 year at $115 million

9. H.R. 7717 - NASA Authorization

10. S. 1648 and H.R. 6991 - ARA-Public Works - Economic Development

Bills in the President's program which have passed the House but not the Senate:

1. H.R. 2 - Drug Abuse Control Act

2. H.R. 2984 - Health Research Facilities Act of 1965

3. H.R. 2985 - Community Mental Health Centers

4. H.R. 4185 - Increase in Patent Fees

5. H.R. 5075 - Increase Loan Insurance of the Farmers Home Administration

6. H.R. 6453 - D. C. Appropriations

7. H.R. 6675 - Medicare

8. H.R. 7060 - Treasury-Post Office Appropriations

9. H.R. 7765 - Labor-HEW Appropriations

10. H.R. 7997 - Independent Offices Appropriation

11. H.R. 8370 - Agricultural Appropriation

12. H.R. 8371 - Repeal of Excise Taxes

13. H.R. 8639 - State-Justice-Commerce-Judiciary Appropriations

Bills in the President's program presently on the Senate calendar:

1. Executive A - United Nations Charter Amendments
2. S. 1493 and H.R. 6050 - National Foundation on the Arts
3. S. 1566 and H.R. 8131 - Juvenile Delinquency Extension
4. H.R. 7750 - Foreign Aid Authorization
5. S. 1404 - Daylight Saving Time (not an Administration bill, but interesting)

Bills in the President's program on the House calendar:

1. H.R. 8439 - Military Construction Authorization
2. H.R. 8464 - Debt Limit
3. H.R. 89 - Tocks Island
4. H.R. 7979 - Whiskeytown, Shasta-Trinity National Recreation Area
5. H.R. 5280 and S. 1280 - Balance of Payments (exemption from Anti-Trust Laws)
6. H.R. 6972 and S. 1599 - The Department of Housing and Urban Development
7. H.R. 7105 and S. 1332 - Export Control Extension
8. H.R. 7984 and S. 1354 - Housing Act of 1965
9. H.R. 8283 and S. 1759 - Extension and Expansion of the War on Poverty
10. H.R. 8310 and S. 1525 - Vocational Rehabilitation Amendments

11. H.R. 8464 - Debt Ceiling Increase

THE PRESIDENT'S PROGRAM IN THE COMMITTEES

Agriculture:

S. 7 - Spruce Knob and Seneca Rocks Recreation Area. The bill is in the full Agriculture Committee in the Senate and expects to report the bill in about two weeks. There has been absolutely no action on the bill in the House.

S. 1702 and H.R. 7097 - Agriculture Omnibus Bill. The Senate Agriculture Committee will begin hearings on the bill within the next two or three weeks. The Committee met yesterday to decide on the schedule for hearings. The House Agriculture Subcommittee has been marking up Titles I and II. There has been action on the wheat and feed grains sections. They are working on the crop adjustment title, the new version of the Soil Bank. It also appears that Congressman Poage's bill, H.R. 7500 - a quasi public model to buy and resell farm land in agricultural areas around cities - will be included in Title I. The Committee is within two or three meetings of finishing Title I. It appears that there will be no rice provisions in the bill. Cotton hearings are going on now and will continue next week. It will be at least three weeks before the full bill gets out of the House Agriculture Committee. It seems that Subcommittees is a hard way to handle the Omnibus Bill. Probably a more efficient and effective way would be to keep the bill in full Committee rather than referring it to the various Subcommittees. Maybe this should be tried next year.

H.R. 8149, the Cotton Bill, will probably be considered with the Omnibus Bill as an amendment to that bill.

S. 1812 - REA Loan Account. This bill has not been acted upon in either house.

H.R. 5075 - Increase of Loan Insurance for the Farmers Home Administration. This is before the Senate Subcommittee. It is anticipated that the Subcommittee will report the bill to the full Committee in two weeks.

There have been no bills drafted or introduced on other elements of the President's agricultural program, including:

1. Agricultural chemical controls.

2. Broadening of commodity exchange regulations.

3. User charges, meat and poultry inspection.

Appropriations:

So far only have four appropriations passed the House and the Senate - Agricultural Supplemental, Second Supplemental of 1965, Interior, and Vietnam Supplemental. The Interior Appropriation is still in conference. In addition to these, the House Appropriations Committee has also passed: Agriculture, D. C., Independant Offices, Labor-HEW, Treasury-Post Office, State, Justice, Commerce, Judiciary.

The schedule for reporting the rest of the Appropriations Bills in the House Committee is:

June 3 - Legislative

June 10 - Military Construction

June 17 - Public Works

June 18 - Defense (maybe sooner)

June 24 - Foreign Aid

The Senate Agriculture Committee expects to start hearings on the Agricultural Appropriations within the month. The D. C. Appropriation is well under way. Hearings have been completed. Mark-up sessions will begin after the reports are finished. Hearings have been completed on Independent Offices, but there has not been time for the start of the mark-up. Hearings are almost finished on Labor-HEW Appropriations. State-Justice-Commerce-Judiciary is in hearings, and final action is expected before the end of June. The Senate Appropriations Subcommittee is marking up the Treasury-Post Office Appropriations Bill and will be ready for the full Committee shortly. Hearings are under way on the Defense Appropriations, but the Committee is going to wait for the House to complete action before it resumes them. The Public Works Appropriation is in the Senate Sub-committee, and hearings are under way.

Armed Services:

S. 28 - Stockpile Management and Disposal. This bill has passed the Senate, and there has been no action in the House yet.

S. 1095 - Military Pay. The Senate Committee has scheduled no action yet. The staff expects that the Committee will wait for the House to act on this matter since it expects some differences with the Administration. There has been no action in the House on the bill yet.

S. 1771 and H.R. 8439 - Military Construction Authorization. This bill is expected to come up on the House floor next week. The Senate is also about ready to report the bill. One more hearing is scheduled, and the Committee should be done with the bill in about two weeks.

Banking:

S. 507 - V.A. Distressed Home Owners. This bill has already passed the Senate and is before the House Veterans Affair Committee. No action has been taken in the House.

S. 1332 and H.R. 7105 - Export Control Act Extension. The Multer faction has done a tremendous job of lobbying on the Arab boycott question, and it is felt that Multer's Amendment will carry unless something is done. The bill is on the House calendar and is awaiting a rule. In the Senate hearings have been held on the prospective provisions of restricting exports to the United Arab Republic.

S. 134 and H.R. 7984 - Housing Act of 1965. This is on the House calendar and will be taken up shortly. It is expected to be taken up next week. The Committee has been told to wait for the Department bill before it brings up the Omnibus Housing Bill. The Senate Sub-committee has finished its mark-up sessions, and the bill goes to the full Committee.

S. 1707 and H.R. 7169 - SEC Fee Increase. There has been no action taken in either house on this bill.

H.R. 111 - Truth in Lending Bill. There has been no action on this bill in either house.

Although not part of the President's program, S. 1698, the Bank Merger Bill, is in executive session of the Subcommittee. House and Senate versions are so different and represent two points of view in the industry that this could become an important political issue. The Administration has stayed clear of the bill. The House bill favored by Wright Patman prevents mergers and is supported by the smaller banks while the Senate bill is favored by Senator Robertson and encourages mergers and is supported by the larger banks. The Senate Committee will undoubtedly take favorable action soon despite the lack of testimony from the Administration. There is also disagreement between the Justice and Treasury Departments on this matter.

Proxmire's Disaster Bill - S. 1796 - is still in the Rules Committee waiting for a ruling. This has not moved at all in the Rules Committee.

Commerce:

S. 985 and H.R. 1664 - Truth in Packaging. The Senate Subcommittee has finished hearings, but no executive sessions have been scheduled. Senator Magnuson is out of town this week and nothing will be done until he returns. There has been no action at all in the House.

S. 1588 and H.R. 5863 - High Speed Ground Transport. Hearings in the House have recessed on this bill and will be resumed later at an unspecified date. The Senate hearings on this bill are scheduled before the Subcommittee on June 14, 15 and 16.

S. 1875 - User Fees for Vessels. No action has been taken on this bill at all.

District of Columbia:

S. 1117 and H.R. 4822 - Rail Rapid Transit in D. C. The House Subcommittee has approved the bill, and it is now before the full Committee. The Senate will not consider the bill until the House has acted.

and H.R. 4644

S. 1118/- Home Rule. The House Committee is starting hearings on the bill; the Senate Committee starts mark-up sessions next Tuesday. Favorable Committee action in the Senate is expected in two weeks.

S. 1612 and H.R. 7395 - Higher Education Bill in D. C. has not moved in either house. Senator Morse expects to start hearings in his Committee within the month.

S. 1632 and H.R. 6745 - Firearms Control Act. The House has not acted at all on the bill. The Senate has completed its hearings and the mark-up sessions have been scheduled.

S. 1719 - Overtime Pay for D. C. Police. The House has done nothing on this bill. The Senate Committee expects to report the bill after the Committee has acted on Home Rule.

H.R. 6889 - Federal Payment and Loan Authorization. The House Committee has concluded its hearings and is now in executive session on the bill. The Senate Committee is waiting for the House to act. A similar provision is already included in the Home Rule Bill now before the Senate Committee.

H.R. 7066 - Revenue for D. C. The House Committee has concluded its hearings on the bill, but no further action has been taken. There has been no action at all in the Senate.

Finance:

S. 1591 and H.R. 6629 - National Firearms Act. This bill is lying in the Senate Committee and in the House Ways and Means Committee without very much action.

S. 1991 and H.R. 8282 - Unemployment Insurance. The Senate has not moved on this yet. The House Ways and Means Committee is holding hearings.

H.R. 4750 - Interest Equalization Tax. There is no action on this in the Senate yet. The House Ways and Means Committee plans to move the bill, but it is lower priority compared to other bills in Committee.

H.R. 5916 - Removal of Tax Barriers to Foreign Investment in the United States. No action in the Senate. The House Ways and Means plans to hold hearings soon. It is anticipated that this bill will come before the Committee before the Interest Equalization Tax Bill.

H.R. 6675 - Medicare. This bill has passed the House. In the Senate the Committee has completed hearings and gone into executive session. The Committee has adopted two amendments that would liberalize the program - extension of hospital benefits to all Federal employees who are not covered by the 1959 Federal Employees Program and treatment of Medicare as a deductible expense.

H.R. 6960 - Auto Agreement with Canada. The House Ways and Means Committee concluded its hearings and will be in executive session next week on the bill. No action yet in the Senate.

H.R. 8147 - Extension of Duty Free Limitation. This is on the House calendar and being held up temporarily.

H.R. 8371 - Excise Tax. This has passed the House this week, and action is expected soon in the Senate.

H.R. 8464 - Debt Ceiling. House is expected to act on this next week. Senate action will follow later.

Ideas in the President's program for which bills have not been drafted yet are:

1. Investment Tax for Less Developed Countries.

2. Removal of Tax Exempt Privileges of Private Foundations.

The House Ways and Means Committee urges the Administration to develop a priority system for deals coming out of that Committee. It is getting most difficult for the Committee to satisfy all the Departments with all the bills they have. A priority system is needed.

Foreign Affairs:

Executive A - Amendments to the United Nations Charter - this is on the Senate calendar for today.

Executive B - Wheat Agreement Extension - this was reported last Tuesday.

Executive H - Hague Protocol. Hearings have been held on the bill.

S. 1903 - United Nations Participation Act Amendments - no action yet.

S. 1935 - International Claim Settlement Act Amendments - no action yet.

S. 2054 and H.R. 5876 - Peace Corps Authorization. This passed the Senate yesterday. The House Foreign Affairs Committee is holding hearings on the bill.

H.R. 6277 - Foreigh Service Act Amendments. Final action by the Committee soon in the House. This has a high priority after the Peace Corps Authorization. It is expected that the House Committee will finish with the Peace Corps next week.

H.R. 7750 - Foreign Aid Authorization. This has passed the House and will be made the pending business tomorrow in the Senate.

Government Operations:

S. 1135 and H.R. 4623 - Permanent Reorganization Authority. This has passed the Senate and the House scheduled action on the bill for today.

S. 1599 and H.R. 6927 - Department of Housing and Urban Development. This is on the House calendar and hearings have been concluded in the Senate. The Subcommittee has held the hearings but Senators Mundt and Curtis want more information. The Chairman is going to hold up final Subcommittee action until this information has been secured.

Environmental Service Administration Reorganization, Plan 2 - Senator Ribicoff will hold hearings before long on this reorganization plan.

Other points in the President's program which have not been acted on yet or bills have not been introduced are:

1. ICC-Locomotive Inspection - Reorganization Plan 3

2. Inter-Agency Committees Reorganization Plan 4

3. National Science Foundation Reorganization Plan 5

Interior:

S. 20 and S. 1121 - Assateague Island National Seashore. The House Committee plans a field trip to the Assateague Island next week. This will be the first consideration of the bill in the House. Regular hearings will start shortly thereafter. The bill in the Senate will go to the full Committee by June 10.

S. 21 - River Basin Planning. This bill is in conference now.

S. 22 and H.R. 3606 - Water Research Act Amendments. This has passed the Senate. No action in the House yet on the bill.

S. 24 and H.R. 7092 - Saline Water Research and Development. House Interior Committee has completed its hearings on the bill and will be meeting for mark-up in two or three weeks. The Senate Committee expects to report the bill by the end of June.

S. 360 and H.R. 51 - Indiana Dunes. Nothing has been scheduled in the House yet on this bill, but the Senate Committee is expected to take this up at its full Committee meeting on June 10. Favorable Committee action is expected.

S. 491 - Bighorn Canyon National Recreation Area. This has passed the Senate, but no action is scheduled in the House.

S. 1129 - Federal Water Project - Recreation Act. This bill is now in conference.

S. 1446 - National Wild River System. The Senate is waiting for the House to act on this bill - and the House has not scheduled anything on the bill yet. In fact, the bill was just introduced in the House by Congressman Race.

S. 1761 and H.R. 7606 - Power House at Grand Cooley - nothing scheduled in the House. The Senate expects to report the bill by the end of the month.

H.R. 89 - Tocks Island - this bill is on the House calendar now and is waiting for a rule.

H.R. 797 - Whiskeytown-Shasta-Trinity National Recreation Area. This bill is on the House calendar awaiting a rule. There is no Senate bill, but the Senate will take up the House bill when it is passed.

The Garrison Project of North Dakota is now waiting for a rule. It will probably come up on the floor next week. The Auburn Folsom South Project has also been approved and is awaiting floor action. These are not part of the President's program, but their developments should be of interest.

Judiciary:

S.J. Res. 1 - Presidential Inability. The bill is in conference.

S.J. Res. 58 and S.J. Res. 278 - Electoral College Reform. The House expects to schedule hearings on this within three weeks. No action has been taken in the Senate.

S. 500 and H.R. 2580 - Immigration. Mike Feighan introduced his bill a few days ago. This complicates the whole immigration question in the House since his Committee is handling the bill. The Senate side plans to resume hearings today.

S. 1240 and H.R. 5280 - Balance of Payments. This is now on the House calendar and is expected to be up on the floor of the House Monday. Nothing has been scheduled in the Senate on the bill.

S. 1564 and H.R. 6400 - Voting Rights Act of 1965. The bill has passed the Senate and is on the House calendar. The House Committee has filed its report and plans to institute the 21-day resolution today. If Chairman Smith wants to wait out the 21 days, the bill will probably not be taken up until after July 4. If he does want to get the bill out earlier, it could get on the floor in about two weeks.

S. 1592 and H.R. 6783 - Federal Firearms Act Amendments. This is sitting in the House Ways and Means Committee without action yet. The Senate Committee is holding hearings. There are still about 50 to 60 more witnesses to be heard.

S. 1792 and H.R. 6508 - State and Local Law Enforcement Assistance. This is in Subcommittee No. 3 of the House which has almost completed hearings on the bill. The Senate Committee has done nothing on the bill yet.

H.R. 4185 - Patent Fee Increase. This bill has passed the House. The Senate Subcommittee has reported the bill out, and it is now before the full Committee.

The Narcotics Civil Commitments Statute has not been introduced in the Congress yet. This was in one of the President's messages, but no bill has been brought up yet.

Labor and Education:

S. 600 and H.R. 3220 - Higher Education. The bill is in executive committee and executive session in the House and will be taken up at next Thursday's meeting. The Reid Amendment was accepted which abolishes the loyalty oath. The Senate Committee is still holding hearings.

S. 510 - Community Health Services. This bill is still in conference.

H.R. 2985 - Community Mental Health Centers. This bill has passed the House and is expected to be approved in the LSenate by the Subcommittee at its next meeting.

H.R. 2 - Drug Abuse Control Act. This bill has passed the House. In the Senate, the bill is in Subcommittee with no estimates when it will be ready for the full Committee.

S. 508 and H.R. 2987 - Group Practice Facilities Construction. This bill in the House is still in a jurisdictional dispute between Committees. There is not much support for the bill. The same goes for the Senate where no action has been taken.

S. 595 and H.R. 3141 - Health Professions Educational Assistance Amendments of 1965. No action has been taken in the Senate on this bill yet. The House Committee is holding hearings on the bill June 8 and 9.

H.R. 2984 - Health Research Facilities Amendments of 1965. This bill has passed the House, and is now before the full Committee of the Senate.

S. 597 - Medical Library Facilities. No action has been taken on this bill yet.

S. 596 and H.R. 3140 - Regional Medical Complex Act of 1965. The House has not acted on the bill at all. The Senate has concluded its hearings and is meeting in executive session of the Subcommittee as soon as the Chairman calls the meeting.

S. 1525 and H.R. 8310 - Vocational Rehabilitation Amendments. This bill is on the House calendar. In the Senate the Subcommittee has finished hearings on the bill; no action taken yet.

S. 1986 and H.R. 8259 - Fair Labor Standards Act Amendments. Nothing has been scheduled in the Senate, but the House Committee has already started hearings. The House Committee has been meeting this week for hearings and plans to hold hearings for the next three weeks.

S. 1566 and H.R. 8131 - Juvenile Delinquency Program Extension. This is on the House calendar and pending before the Rules Committee. In the Senate the bill was ordered reported on May 25.

S. 1483 and H.R. 6050 - National Foundation on the Arts. The House Committee has concluded its hearings, and the bill is before the full Committee. The Senate Committee ordered the bill reported on May 25.

H.R. 77 - Repeal of Section 14(b) of National Labor Relations Act. The House Committee is holding hearings every morning and afternoon this week. Hearings are scheduled to be concluded tomorrow. Nothing has been scheduled in the Senate, but the Senate will act after the House.

S. 1759 and H.R. 8283 - War on Poverty. This bill is on the House calendar. The Senate Committee has not moved on this bill yet.

Post Office:

S. 1997 and H.R. 8207 and S.1998 - Federal Salary Adjustment Act and Federal Salary Review Commission. There is no action on either of these in the Senate yet, but the House Committee is still holding hearings on the bill. The next hearing will be on June 10 when the Director of the Bureau of the Budget will be heard. Hearings are expected to be concluded in June.

Public Works:

S. 1648 and H.R. 6991 - Economic Development and ARA. The Senate has passed the bill, and the House Committee starts executive session on the bill next week.

S. 306 - Clean Air Act Amendments. The bill has passed the House and the House Committee holds hearings next week on the bill.

There has been no action on the President's highway beautification program yet.

S. 4 - Water Pollution Control - is still in conference.

M E M O R A N D U M

June 8, 1965

TO: JOHN STEWART

FROM: THE VICE PRESIDENT HH

Please note the attached from Congressman Celler. He is concerned about the Joint Committee on Immigration. You may want to keep a file on this.

Prepare file on "Joint Committee on Immigration"

OFFICE OF THE VICE PRESIDENT

WASHINGTON, D.C.

OFFICE OF THE VICE PRESIDENT
WASHINGTON

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McClellan
~~Johnson~~ (dead)

2 vacancies

Herkom
~~Keaton~~ (deputies)

Monroney
Appropriation

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RT

Prepared by the TIME-LIFE Washington staff, edited by LIFE Bureau Chief Richard Stolley

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fice, meetings with staff, Cabinet, visiting big shots.

2–2:30—A swim in the cozily heated (about 90°) White House pool, a dozen or so 75-foot laps, often with his special assistants for company.

2:30–4—Working lunch with staff or visitors, consisting of a cup of soup, thin slice of liver or other meat, salad with oil and vinegar dressing, tapioca, gelatin or similar light dessert, cup or two of Sanka.

4–5—A nap—in pajamas (Johnson has the ability to catnap anywhere, in the barber chair, even in a noisy helicopter).

5–9—The office again for more paper work and appointments, often a long walk around the south lawn of the White House with visitors.

9–10:30—Dinner with Lady Bird, or with friends or Cabinet members, likely invited at the last moment. (The President has all but given up his evening Scotch and soda, but throughout the day he sips frequently from diet colas, root beers, orange drinks.)

10:30–Midnight—Staff papers in his bedroom, the 11 p.m. news on all three networks while getting a bone-tingling massage. Once in a great while, a movie in the White House theater. Bed.

3 a.m.—A call from the Situation Room giving results and casualties from the day's bombing raids on North Vietnam. Sometimes a bit more reading before dozing off again.

During a time of crisis, this schedule goes awry: the nap is dropped, and lunch may be consommé at his desk. "The President is never bothered with ordinary fatigue," a close aide notes with awe. "Others around him drop, but he can always go on. He is blessed with extra glands."

AN OBSCURE CONGRESSMAN TO KEEP AN EYE ON

One of the most troublesome leaks in Lyndon Johnson's umbrella of congressional consensus is Congressman Michael A. Feighan, a 60-year-old Ohio Democrat whose 23-year career in the House has been marked chiefly by his ability to get himself re-elected. Feighan has sponsored but one piece of legislation (a 1958 bill concerning Hungarian refugees), and he took a brief turn in the headlines when in 1964 he tried unsuccessfully to bar Richard Burton from the U.S. on the grounds that Burton and Elizabeth Taylor had "behaved immorally." Beyond this, Feighan is a pre-emptive and demonstrably reckless anti-Communist and an adamant foe of flooding the country with foreigners he considers undesirables. It is in this latter respect that the Congressman is causing the Administration anguish, for he now heads the House immigration subcommittee and in this position blocks Lyndon Johnson's efforts to overhaul U.S. immigration policies. The Administration's measure would abolish the present "national origins" quota system in favor of admitting into the U.S. any foreigners possessing a needed skill or professional training, regardless of nationality. Feighan has effectively stymied every effort to pass the bill for the past 22 months, since it was first introduced by John Kennedy.

For the limited number of Capitol observers aware that he is around, Feighan is a puzzle. He is a Princeton and Harvard Law School graduate. When first elected to Congress in 1942 from Ohio's 20th district, he was known as a liberal, having defeated an arch-reactionary America Firster, Martin Sweeney. But thereafter Feighan drifted swiftly into the camp of ultra right-wingers and accumulated a staff to match, notably Edward M. O'Connor and Philip Corso. O'Connor's present title is staff director of the Joint Committee on Immigration and Nationality Policy—a misleading job title, since the joint committee has no staff and has never met since it was created in 1952. Its budget is $24,000 a year; O'Connor's salary is $22,945.20.

Among Corso's distinctions is that of having spread a story following the Kennedy assassination to the effect that Lee Harvey Oswald was in the pay of the CIA.

Shielded by O'Connor and Corso, Representative Feighan has managed to avoid notoriety as he consolidated his committee positions. In a rare interview recently, the reporter was requested to submit questions in advance. These Feighan answered by reading from a prepared paper, tracing each line with his index finger. When he appeared to falter, O'Connor would break in with "the Congressman meant to say this," then go on to answer the question himself. Feighan, at these times, stared out the window.

Yet the obscure Ohioan has contributed occasional erratic outbursts of his own. At a private dinner during a 1963 conference on immigration in Geneva, he shocked U.S. officials by describing President Kennedy as a "Communist sympathizer" and a "nigger lover." (More recently, the late President's brother, Senator Ted Kennedy, retaliated by introducing everyone at the head table of an immigration banquet *except* the Congressman from Ohio, who promptly stormed out of the room.)

To proponents of the immigration reform measure, it seems inconceivable that Feighan can roost on the bill through another entire session in the face of White House persuasion. He will need what presidential help he can get to keep his seat in 1966.

Yet the worry over Michael Feighan goes far beyond his opposition to the immigration bill. What really concerns the White House and many congressional Democrats is the fact that only 77-year-old Representative Emanuel Celler outranks Feighan on the mighty House Judiciary Committee, which controls critical legislation in the field of civil rights, voting and antitrust.

Celler and Feighan not only disagree politically, but are bitter personal enemies.

"What can I do about Feighan?" Celler pleaded with a colleague recently. "He's driving me crazy."

"Live, Manny," the congressman replied. "You've got to keep living."

Our most famous ex-ambassador to Luxembourg interrupted her endless social schedule last week to salute her most recent successor, Mrs. Patricia Harris (left), *the attractive Washington lawyer who is the first Negro woman named to a top U.S. diplomatic post. "I think it's a marvelous appointment," said Perle Mesta* (right), *whose tenure in office provoked the musical* Call Me Madam. *"I'm sure the people will like her. When I went to Luxembourg I took my butler and maid, who are colored, and the people adored them." She plans to give a tea soon in honor of Ambassador Harris.*

The Herald of Freedom

Frank Cappell

BOX 333 45 BAY STREET STATEN ISLAND 1, N. Y.

VOLUME VI, Number 8 November 20, 1964

SUBVERSIVE AND ILLEGAL ALIENS IN THE U.S.

The number of illegal and subversive aliens n the United States is not known to the Immiration and Naturalization Service, nor to the epartment of Justice. Based on known facts, conservative estimate would be several mil-on.

In Progress Report #2 of the Senate Internal ecurity Sub-committee entitled, "Subversive nd Illegal Aliens in the U.S.," issued in 1951, is stated that, as a result of hearings held in ashington, D.C., and New York City, the tesmony showed that there were at that time an stimated quarter of a million illegal aliens in e area of New York City alone. The report ated further that, "There is a tremendous and ogressively increasing number of cases of ilgal aliens in the United States including stowvays, deserting seamen and smuggled aliens. hese cases include militant Communists and a mber of members of the criminal gang of the torious Sicilian bandit chief Salvatore Giuliano." e testimony showed that apprehension of ilgal entries on the Mexican border numbered er a half a million a year.

Those interested in determining the "threat om within" should take these facts into consiration, since there are more illegal aliens in United States than there are men in our med forces. The Immigration and Naturalition Service, which is under the jurisdiction the Attorney General, is made up mainly of dicated Americans. They are, however, undernned, hamstrung and forced to follow the poies of the Department of Justice and the State partment, both of which seem determined not clean up this situation. The hearings of the mmittee referred to previously showed that 1948 an accumulated backlog of over 50,000 es of illegal aliens in New York City alone s closed out without any proper investigation orders of the officials of the Department of stice.

n addition to the "illegal" aliens coming in are subject to arrest and deportation, we e those admitted as so-called "refugees."

The Intergovernmental Committee for Europea Migration was established as a result of a conference held at Brussels, Belgium, in 1951. It was formed to achieve cooperation among mem ber governments to solve problems of refugees and surplus populations in Europe. Escapees from Communist countries presented the most pressing problem.

In 1955 the Senate Internal Security Sub-com mittee issued a report based on hearings entitled, "Security Screening of Refugees." Testimony of Col. William F. Heimlich, Chief of U.S. Army Intelligence in Germany showed "that of persons who came to West Germany as alleged refugees between 30 and 40 percent were sleepers or Red agents awaiting calls to action or migration to the United States." The hearings showed that twelve hundred persons (displaced), after arrival, were subject to warrants for arrest for deportation, for fraud, criminal or subversive activities. The testimony showed that David Hoyt, Chief Security Officer of the Intergovernmental Committee for European Migration, had already testified that the security system constituted a (continuing) security risk to the United States, and he resigned in protest. The testimony showed that former Ambassador Arthur Bliss Lane (author of "I Saw Poland Betrayed") left his assignment as Director of the Intergovernmental Committee for European Migration because of lax security.

This situation has not improved. In a report of a House Judiciary Sub-committee, Report #1034, 88th Congress, 1st Session, 1963, we read the following: "Among the questionable activities carried on by the I.C.E.M. requiring a substantial financial outlay of intergovernmental funds, the following are involved (1) retaining a private organization described as nonprofit and headquartered in Washington, D.C., (2) retaining a legal firm likewise located in Washington, D.C., (3) retaining a public relations firm located in New York City."

The first organization referred to is the International Development Services, Inc. which

collected over one million dollars over a period of time for allegedly doing work which should have been done by the paid staff of I. C. E. M. On the Board of Trustees of this organization has been listed the notorious security risk, Harlan Cleveland of the State Department.

The law firm referred to in item (2) above is also doing work which the American taxpayers are paying the staff of I. C. E. M. to do. The sum collected by this law firm for this work amounts to over a million dollars also. The name of the law firm was Landis, Cohen, Rubin and Schwartz of Washington, D. C. The Schwartz in the firm was Abba P. Schwartz who became Administrator of the Bureau of Security and Consular Affairs of the Department of State and who is also a serious security risk. When Schwartz went into the State Department, his law firm became known as Landis, Cohen and Singman and continued to do work for I. C. E. M. Julian Singman replaced his "close" friend Abba Schwartz as a member of this firm after resigning from the Department of Commerce, while being considered for a promotion, after investigation disclosed his involvement in homosexual matters.

The public relations firm referred in item (3) above is Vernon Pope Company of New York City, which was retained as a "consultant" and which was paid substantial fees and expenses. Vernon Pope is a former employee of "Look" magazine. One of his employees is an "intimate friend" of Abba Schwartz.

Abba Schwartz will be remembered for his questionable activites in connection with presidential assassin Lee Harvey Oswald. Schwartz recently made a trip to HongKong to work out details for permitting a large group of so-called "Russian refugees", now in HongKong, to come to the United States. A sum of twenty-five million dollars of U.S. funds was transferred to HongKong banks. These alleged "refugees," over ten thousand of them, supposedly fled from Manchuria, travelling thousands of miles through Communist held territory to HongKong. After this amazing feat, they were given exit visa permits to leave by the Red Chinese Government.

Several countries in South America permitted a number of this type of "refugees" to settle, also using U.S. funds. Among the countries involved were Brazil, Equador, Colombia and Mexico. The Allen-Scott Report stated a few months ago that the South American countries which allowed these "refugees" in had to expel or jail a number of them on grounds of espionage, violence and assisting members of local Communist Parties in attempts to overthrow the government.

With the approval of the State Department a the Attorney General, a large number of refugees from Cuba came to the United States aft the Bay of Pigs fiasco. Of this group, one-ha were selected by U.S. officials and the other half by Fidel Castro's agents. Those selected by the Communist agents were for the most pa not even Cubans, but from a number of differe European (including Communist) countries. Mo recently Cubans have been coming into the Unit States via Spain. The visa applications filled o at the U.S. Embassy frequently do not have al of the questions answered. Any Cuban going t Madrid may get a visa it seems, as long as he is in good health and "says he is anti-Castro."

Living in the United States at present is a Spanish Communist who arrived here via Mexic Alvarez Del Vayo was formerly the Foreign Mi ister of the Spanish Communist Government. H and his associate Dr. Negrin, former head of the Spanish Communist Government, fled from Spain and settled in Mexico where they tried u successfully to set up a Spanish Communist Go ernment in Exile. Del Vayo is in the United States on a Mexican passport with the approval of the State Department and the Attorney Genera He resides as 405 East 63 Street, New York, N Y. He formerly lived at 180 Sullivan Street in the Greenwich Village Section of New York City He is allegedly employed by the "York Gazette" a small town left-wing, radical type newspaper published at York, Pennsylvania. Another employee of this newspaper is William Worthy, a friend of Fidel Castro, who had his own passport problems, having visited Cuba illegally. Del Vayo, it is claimed, is a reporter covering the United Nations for the "York Gazette." It was on this basis that the State Department justified permitting this notorious Communist to live in the United States.

Del Vayo reportedly makes trips to Communist countries and made a tour of Red China a little over a year ago. While there he was an outspoken critic of the United States. Some time ago he was a speaker for the Committee for a Democratic Spain. Following his talk, he was quoted on Radio Moscow as having stated that the U.S. maintains military bases in Spain which are of no value other than to keep General Franc in power.

The Communist Conspiracy uses many different ways to bring its people into the United States. Some are smuggled across the borders from Canada and Mexico. Others simply jump ship when their vessel is in port. There is an international Communist organization exposed during the Dies Committee Hearings but little

heard of today. This organization is called the "Brotherhood of the Sea" and was originally formed at Havana, Cuba, in the 1930's. It operated as a front to combine in membership the Merchant Marine Communist Party members of the different Latin American countries. Within the organization have been secret liquidation units used for eliminating certain defectors. The organization has also been used extensively as espionage couriers. A large unit was contained within the National Maritime Union of the United States. In some cases members have been used to kidnap defectors and others in foreign ports. Its use for smuggling in illegal aliens is easily recognizable.

Another method of getting in more important people secretly is in effect now. The Immigration and Naturalization Service, being short handed, is unable to cope with some security problems. At New York International Airports a visiting diplomat from a Communist or satellite country may have as many as twenty to forty persons gathered inside the restricted area to greet him on arrival. These individuals go through to the restricted areas by showing UN identification cards or diplomatic passports. When the group leaves it is found that the passenger list is short by two or three persons who have passed through using an extra set of credentials provided for them. They leave as though they had been part of the greeting group. One source advises that in a high percentage of cases at Kennedy (formerly Idlewild) International Airport in New York, the airline manifest does not agree with the immigration officers' actual count.

More important alien Communists endeavor to obtain a legal status, either through a diplomatic cover, a newspaper reporter cover, or through a change in status. Communists are not allowed to come to the United States without a waiver which is recommended by the State Department and approved by the Attorney General. Bobby Kennedy gave waivers to over four thousand immigrants in one year. Frequently when the Immigration Service is taking action toward a deportation, the individual is "rescued" through the use of a private bill put through Congress. Many Congressmen legitimately sponsor private bills in immigration cases, due to family hardship cases involving relatives of U.S. citizens. Some of these private bills, however, are not so legitimate and there are monetary reasons involved.

Another way to overcome deportation is to have the individual's status changed from visitor to permanent resident. A typical case of what can happen under our present State and Justice Departments is the case of Andres Molostow, alias Andres Mendoza, alias Andres De La Fuente, etc. This individual's correct name is Andres Molostow, but he is in the United States under the fictitious name of Mendoza. He had been in the United States four times previously but had been forced to leave each time. His Immigration and Naturalization Service file number is A-6-497807 and it was originally opened in 1947.

Molostow has been reported as being a Communist who has allegedly worked in close cooperation with Soviet Intelligence. He has already been forced out of four countries because of his activities and background. In Mexico he entered the country with a false identity. He had gotten two mature Mexican citizens to pose as his mother and father in order to obtain Mexican citizenship. When the plot was exposed by the Mexican Secret Police, Molostow was expelled. He is known to have been expelled from Guatemala and HongKong. In coming to the United States this time he used a temporary status, coming from Panama.

During Molostow's career he has been reported as having handled assignments in Japan, Korea, VietNam and Europe. An attempt will be made, when his case is reopened, to claim that he has been a double agent who has given information to the C.I.A. but this is untrue. In this, his latest attempt to penetrate the United States, Molostow settled down in New York and retained a lawyer, Mr. Victor Jacobs of the law firm of Galef and Jacobs, 22 East 40 Street, New York, N.Y., to file an application for a change of status from visitor to permanent resident.

Molostow is extremely wealthy and is reported as being the president of three corporations. One of these is reported to be B.V.D. International, a Panamanian corporation which conducts B.V.D. Company, Inc., licensing arrangements in Central and South America. He was reported as living at 80 Park Ave., New York, N.Y. in a large elegant apartment house with his wife, Tatiana. They have a non-published telephone number.

A report has been received that Molostow paid the sum of one hundred thousand dollars (not to his lawyer) to have his status changed from visitor to permanent resident. The money is reported as having been paid through an intermediary to two officials in Washington, D.C. one of whom is an elected official. All the details in this case, including information not con-

vo separate Congressional investigating committees. The fact that this individual came into ie country under a fictitious name is in itself ufficient reason for deportation. Molostrow as two relatives who have entered and remain- l in the United States under circumstances orthy of vigorous investigation. Molostrow and is relatives and the millions of other illegal liens in this country constitute an important art of the "threat from within."

In the Revolution in Bogota, Colombia, in 1948 which Fidel Castro was a participant and was rrested as an International Communist, it was iscovered that a great many of the participants the revolution were so-called "refugees" from urope who had come to a new country "to start fe over again." At the time of the revolution Cuba it developed that there were many thouands of hidden Communists, many aliens who articipated and who were not known to the Cuban overnment as Communists. The number of ommunists who have come to the United States rom Cuba, Hungary, Germany, etc.as supposed refugees" fleeing persecution is frightening to ontemplate. These people are here legally on permanent basis. But how many of the several illion illegal aliens now in the United States wait the "call to action"?

And now, in spite of the fact that there are so nany Americans unemployed, plans are under vay in the Administration in Washington to alow larger numbers of immigrants to enter the ountry each year. Bobby Kennedy says the roposed changes in the Immigration Laws will make them more "selective." Considering the type person Bobby Kennedy and his coorts would be expected to "select" we can't elp but feel the "selections" will be more elpful to the world revolution than to the prosperity and security of the United States.

Any changes in federal laws, interpretations of federal laws and enforcement of federal laws where there is national security involved and the rights and priveleges of known Communists are at stake, always seem to favor the Communists over the national security.

The State Department, with the approval of he Attorney General, drew up on their own a new set of passport regulations which were placed in the Federal Register, Washington, D. C. Friday, Jan. 12, 1962. Under the Subversive Activities Control Act of 1950, as amended (50 U. S. C. Sec. 786), a passport shall not be issued to, or renewed for any individual who the issuing officer knows, or has reason to believe is a member required to be registered under Section 7 of the law referred to above.

Under this law confidential information supplied by the intelligence agencies of our government as to Communist activities or membership was considered sufficient to come under the "has reason to believe" clause of the law. The new regulations provide that anyone refused a passport has the right to a hearing, to be able to confront witnesses, have them cross examined, be able to examine FBI and other intelligence reports, etc. Since the State Department has no power of subpoena, witnesses could not be made to appear. The end result has been to give Communists carte blanche to U.S. passports or divulge confidential information.

In hearings held by the Senate Internal Security Sub-Committee, May-June 1962, entitled, "State Department Security, The New Passport Regulations," the deceit, double talk, and devious reasoning of the State Department personnel makes fascinating reading. Illegal aliens, improper immigration, passport misuse, failure to prosecute and lax security are part of the threat from within.

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Name check

The Acting Attorney General November 10, 1964

Director, FBI

LIEUTENANT COLONEL PHILIP J. CORSO

Reference is made to the request of Mr. Harold Reis of your staff to Assistant Director Courtney A. Evans on November 5, 1964, for a name check concerning the captioned individual.

Our files do not reveal that Corso has been investigated by this Bureau. We do have information indicating that he has been connected with the U. S. Army for over twenty years engaged primarily in the intelligence field. Over a period of years he has contacted the FBI furnishing information in connection with various allegations of subversive activities on the part of different individuals.

In 1955, General Arthur S. Trudeau furnished this Bureau as well as other agencies with a list of various individuals alleged to be "Fabian Socialists" who were in policy positions in the United States Government. At that time General Trudeau indicated that Colonel Philip Corso, then assigned to the Operations Coordinating Board, would be in a position to elaborate concerning the list of names as he, Corso, had actually accumulated the information regarding these individuals. It has been ascertained that this list was disseminated outside of the Executive Branch of the Government and had not been handled in a secure and prudent manner. Concerning the list, the FBI files were reviewed concerning the individuals named and although we did find derogatory information concerning many of them, there was insufficient evidence to prove the validity of the allegation of "Fabian Socialists." "Fabian Socialists" has been described as a British socialist organization founded in 1884 which advocates the gradual transition from capitalism to parliamentary socialism and opposes Marxism and revolutionary action.

Our files disclose also that Corso appeared before the Subcommittee to Investigate the Administration of the Internal Security Act and Other Internal Security Laws of the Committee on the Judiciary on May 15, 1961, and again on April 3, 1962.

The testimony consisted primarily of his reading into the Committee's records the entries from personal and private office diaries that he kept during his service with the Operations Coordinating Board from 1953 to 1957. He criticized certain United States Government policies as well as officials and non-Government individuals with regard to American opposition to communist moves throughout the world since World War II. Most of the testimony was apparently based on the allegation and material concerning "Fabian Socialists" previously mentioned.

In February, 1964, we received information from an official and reliable source that a rumor was being passed around among high Government officials and even in newspaper circles that Lee Harvey Oswald, prior to the assassination of President Kennedy, had been an informant of the FBI and was being paid $200 a month. The source of this rumor was alleged to be Corso. As the rumor was entirely false and without any foundation, Corso was interviewed by an official of this Bureau. After considerable discussion, Corso admitted that he had passed out information concerning Oswald's alleged connection with the FBI, stating "his sources in CIA had merely presumed that Oswald was an FBI informant." Upon being requested to identify his sources within the Central Intelligence Agency, he refused saying that as his "CIA friends had no facts whatsoever he did not want to reveal their identity." He emphasized the fact that his allegations had been strictly deductions and had no basis in fact.

With respect to a Polish defector, Michal Goleniewski, who has been under control of the Central Intelligence Agency, this Bureau has received information that there is some basis to believe that Corso had "leaked" information to the press concerning his defection and information that he had furnished to United States authorities. There is also some basis to believe that Corso may have deliberately distorted information concerning this defector. Another Government agency has characterized Corso as a "parasite" who has never produced any intelligence through his own efforts but has profited from information developed by dedicated Government agents and investigators.

JS/ep/VA

COPY

June 4, 1965

Dear Dan:

Thank you for sending me a copy of the letter you received from Mr. Monroe R. Bethman of Harrisburg. I am looking into the question raised by Mr. Bethman, and will be in touch with you again soon.

Best wishes.

Sincerely,

Hubert H. Humphrey

The Honorable Daniel J. Flood
U. S. House of Representatives
Washington, D. C. 20515

DANIEL J. FLOOD
11TH DIST., PENNSYLVANIA

COMMITTEE:
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331 OLD HOUSE OFFICE BUILDING
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HOME OFFICE:
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WILKES-BARRE, PENNSYLVANIA
ZIP CODE: 18701

Congress of the United States
House of Representatives
Washington, D. C.

May 28, 1965

Hon. Hubert Humphrey
Vice President of the United States
Washington, D. C.

My dear Mr. Vice President:

You will find enclosed a copy of a letter written to me by Mr. Monroe R. Bethman, Department Commander of the American Legion, 1625 North Front Street, Harrisburg, Pennsylvania.

Will you please be good enough to favor me with your comments?

Sincerely yours,

DANIEL J. FLOOD, M.C.

DJF/T/dj

Enclosure

The AMERICAN LEGION

DEPARTMENT OF PENNSYLVANIA

THE OFFICE OF
DEPARTMENT COMMANDER
MONROE R. BETHMAN
1025 N. FRONT ST.
HARRISBURG, PA. 17105

May 13, 1965

Honorable Daniel J. Flood
House Office Building
Washington, D.C.

Dear Congressman Flood:

Newspaper reports today indicated that the special Presidential Committee recommended that the Veterans Administration keep open five of the eleven hospitals it planned to close.

I bring to your attention the fact that eight regional offices will not be closed as previously announced.

It's very interesting to note that the veteran population served by these offices are as follows:

Manchester, N. H.	87,000
White River Junction, Vt.	47,000
Fargo, N. D.	100,000
Sioux Falls, S.D.	85,000
Juneau, Alaska	14,000
Wilmington, Del.	52,000
Cheyenne, Wyo.	38,000
Reno, Nev.	32,000

It is very important to note that the Wilkes-Barre office alone, takes care of a population of 396,000. In simple arithmetic, the Veterans Administration Regional Offices to remain open show that their total of the veteran population would be 455,000. I ask you how can one justify the closing of the Wilkes-Barre office which handles a veteran population of 396,000 and yet keep open the 8 V. A. Regional Offices which have a total population of 455,000.

I and the 237,000 Legionnaires of Pennsylvania, urge you to go all out to keep the Wilkes-Barre office open.

Honorable Daniel J. Flood May 13, 1965

The decision of this Committee gives more weight to our argument to keep the Wilkes-Barre office open.

Your cooperation in this matter would be most appreciated.

With kindest regards, I am

Sincerely,

Monroe R. Bethman

MONROE R. BETHMAN
DEPARTMENT COMMANDER

MRB:al

JS/ep/ Fn-Rel

COPY

June 17, 1965

Dear Ernest:

Your letter containing your kind invitation to testify before your Subcommittee on Foreign Aid Expenditures has been brought to my attention. I know what important work your Subcommittee is doing in this area, but I must respectfully decline your thoughtful invitation. As Vice President, I have been following the general policy of not appearing before any legislative committees. I know you will understand.

Best wishes.

Sincerely,

Hubert H. Humphrey

The Honorable Ernest Gruening
United States Senate
Washington, D. C.

June 7, 1965

MEMO

TO: The Vice President

FROM: John Stewart

The attached letter has been received from Senator Gruening. In it, he asks you to testify before his Government Operations Subcommittee on Foreign Aid Expenditures on the question of birth control information. I gather this is about the last thing you would want to do, particularly creating the precedent of the Vice President testifying before Senate Committees. You will note that I acknowledged receipt of the letter from Senator Gruening and indicated you would be in touch with him. Perhaps you might wish to dictate a short note to him personally or speak to him when you are in the Senate.

In any event, I bring the entire matter to your attention.

Cant do!

To Johnst

No — Cant 7/11

Reply for me

May 31, 1965

Dear Senator Gruening:

This will acknowledge your letter to the Vice President requesting that he appear as opening witness on S. 1676 before the Government Operations Subcommittee on Foreign Aid Expenditures. The Vice Present is currently out of Washington, but I will bring your request to his attention promptly. I am sure he will be getting in touch with you.

Best wishes.

Sincerely,

John G. Stewart
Assistant to the Vice President

The Honorable Ernest Gruening
United States Senate
Washington, D.C.

United States Senate

COMMITTEE ON
GOVERNMENT OPERATIONS
SUBCOMMITTEE ON FOREIGN AID EXPENDITURES
(PURSUANT TO S. RES. 58, 89TH CONGRESS)

May 26, 1965

The Honorable Hubert H. Humphrey
Vice President of the United States
Washington, D. C.

Dear Hubert:

Your comments of May 17 concerning the "population challenge" are encouraging. We need to get an extensive dialogue under way at the community level as to what excessive population growth means to the United States and its domestic War Against Poverty.

Yesterday four Senators and at least 36 Congressmen attended a breakfast meeting in the Congressional hotel to hear the summary of the new National Academy of Sciences report on population growth in the United States which was presented by Dr. William D. McElroy of The Johns Hopkins University. Perhaps the single most important part of the report appeared in the concluding paragraph wherein the Academy recommends that the federal government have a person "at a high national level" charged "with specific responsibility for leadership in implementing population programs." My bill, S. 1676, proposes that there be assistant secretaries of Health, Education, and Welfare and State specifically designed to do just this. The coincidence is fortuitous. It also provides for a White House Conference on Population in 1967.

We are now aware that birth control, when placed in the correct context as to what it can mean to our way of life and why births unchecked will harm us and the emerging nations, is a respectable subject which needs attention.

As Chairman of the Government Operations Subcommittee on Foreign Aid Expenditures, I intend to hold hearings shortly on S. 1676. That hearing must be informative and the information forthcoming must go out, through the press, to the men, women and children across this land.

Old stories won't do. In addition to the usual witnesses, faithful and tireless to the birth control cause, more recent converts are needed. We must also have new faces and we must also hear new voices.

Will you be the lead-off witness?

I will arrange the opening of the hearing at a time and day for your convenience.

You could speak extensively on the subject of poverty, what it is, why we have it, how we can end it and thereby preserve our resources, and better provide the needs of a Great Society which include adequate housing and a decent education for all.

As co-ordinator of the inter-Agency effort against poverty you are in the perfect place at the perfect time to speak to the nation.

The President has said "I will seek new ways to use our knowledge to help deal with the explosion in world population and the growing scarcity in world resources." The language of S. 1676 implements the President's pledge. Information concerning S. 1676 is enclosed.

Before we can advance must further, we must air the facts. I can think of no better person than you to "get this show on the road," because we want to start the population explosion hearings off with a bang, not a whimper.

With best wishes, I remain

Cordially yours,

Ernest

ERNEST GRUENING, U. S. S.

Enclosure

July 6, 1965

MEMORANDUM TO THE VICE PRESIDENT

FROM JOHN STEWART

RE: VOTING RIGHTS BILL (To be discussed at White House Leadership Breakfast, Wednesday,A.M.)

The Attorney General has talked with Larry O'Brien about the possibilities of having the House of Representatives accept language that would provide for something less than a total ban on poll tax but would be a stronger version than enacted by the Senate. I understand from the Attorney General that acceptable language has just about been worked out between the civil rights groups and the Department of Justice.

The preferred course of action, one that could be explored at your discretion at the breakfast meeting, would be for the House to adopt this new poll tax language along with the other principal amendments to the Senate bill and then have the Senate accept the House version. This would avoid a conference committee and produce a voting rights bill weeks earlier than otherwise could be expected.

The problem, of course, is to obtain advance clearance on this language so that no one would be embarrassed by supporting what is less than the absolute poll tax ban approved by the House Judiciary Committee. It is my understanding that the Attorney General has been in touch with Larry O'Brien, who should be fully aware of the situation. The objective, hopefully, would be to secure agreement between the speaker and Senator Mansfield that this course of action would be pursued.

NOTE: If the leadership of both Houses agrees to explore this course of action, Burke Marshall and the Attorney General will be available Wednesday after 11 a.m. to meet with Senator Dirksen and anyone else who should be consulted.

You might wish to discuss the situation with Larry O'Brien prior to the breakfast. At present, the first objective should be gaining approval from Senator Mansfield and Senator Dirksen that they would accept this compromise language. Then, having achieved these assurances, discussions could be carried forward with the Speaker.

File

MEMORANDUM ON LOWERING THE VOTING AGE TO EIGHTEEN

National Student Committee to Lower the Voting Age
819 Independence, S.E.
Washington, D. C.

July 18, 1965

H. J. Res. 432
H. J. Res. 941

Introduction

In modern times our country has become engaged in protecting democracy throughout the world. From Berlin to South-East Asia we fight for our democratic principles, yet at home these principles have been ignored for a large segment of our own population. It is difficult for the ten million (1) young people in this country between the ages of 18 and 21 to comprehend those struggles, when their most basic democratic right -- the right to vote -- has been denied. This right has been witheld through the archaic minimum voting age of 21. Such an arbitrary age, established more than 150 years ago, serves no positive end in our modern society, and is harmful to our basic democratic structure.

It is the purpose of this paper to discuss the issues concerned with securing the right to vote for America's youth of 18.

Young People in History

Many famous men in our country's past have attained great heights while still in their teens. George Washington at 19 was appointed one of the adjutant generals of Virginia, with the rank of major. Alexander Hamilton was writing widely read political pamphlets before he was 15. Martin Van Buren was studying law at that age and John Quincy Adams was serving at 14 as private secretary to the American ambassador to Russia.

Yet none of these accomplished Americans had the right to vote.

Certainly today's youth has more opportunities and privileges than they did 150 years ago. Not only are they exposed to news and communications media at an early age, but both civics classes as well as participation in school student government organizations sharpen their awareness and stimulate their political knowledge as never before.

Besides taking advantage of these improved educational opportunities young Americans of the '60's are shouldering more responsibilities than at any previous time in our nation's history.

The facts plainly show that today's youth is as well qualified to vote as those persons over twenty-one.

Education of Today's Youth

An essential part of the academic high school curriculum is American History. Such a course, which illustrates our democracy's growth from colonial to modern times is required at all schools in the United States. Besides historical education, most secondary schools offer a variety of courses in civics and government.

More people than ever before are receiving this basic political training in high school. In 1962, 64% of all young adults between the ages of 15 and 18 graduated from high school (2), as compared with only 28.3% of the voting population over 25 who received diplomas. (3)

However, for the majority of the country, high school courses will be their last exposure to formal political education. In 1962, of those over 25 years of age, 90% failed to go on to any form of higher education. (4) The number of young people between the ages of 18 and 21 entering college has increased greatly yet the fact remains that 70% of these persons receive no education beyond high school. (5)

Conclusive proof of the rapidly improving educational level is the large drop in the illiteracy rate over the past 50 years. (6)

Youth in the Labor Force

The maximum age for compulsory school attendance in any state is 18. It is as low as 14 in several states. 19 states exempt students whose employment is necessary for family support. At the age of 18 or lower, the 70% of all students who do not go on to college assume adult responsibilities with 6 million of them becoming a valuable portion of the labor force. (7)

These young people who contribute so greatly to our national product and economy should be allowed to aid in making the decisions which influence their own future and that of the Nation.

The Draft and 18 Year Olds

A young man, upon reaching his 18th birthday, must register with his local draft board, and then be ready at any time thereafter to be called upon to defend his country.

In 1953, at the height of the Korean War, Hubert Humphrey, then Senator from Minnesota said:

"The reason most frequently advanced for extending the vote to 18 year olds is, that if they're old enough to fight, they're old enough to vote. . . . I think there are few people today who would contest this point of view, least of all those who are familiar with the grave responsibilities which many men of 18 to 21 years of age take on in wartime and our peacetime armed services.

"The whole trend of this tense period in international affairs is to throw increasing responsibilities upon 18 year olds, and to threaten interruption of their careers as well as jeopardy to life itself. Surely we have small right to place this onerous immediate future before youth, and at the same time, ask them to forgo the rights and duties of full citizenship."

The tense international situation referred to by Senator Humphrey is more critical today than it was in 1953. Once again, large numbers of American youth are fighting overseas. The following article appeared in the New York Times of July 14, 1965.

"The possibility of a call-up of reserves, an increase in the defense budget, draft calls and other 'new and serious decisions' related to the war in Vietnam were raised at a news conference today by President Johnson."

Many prominent Americans have stressed that those who are of draft age have a right to vote.

Eleanor Roosevelt said, "If young men of 18 or 19 are old enough to . . . fight in their country's battles . . . then they are old enough to take part in the political life of their country and to be full citizens with voting power."

Former Governor of Maryland, Theodore R. McKeldin, speaking at commencement exercises at Anderson College said,

"We have long placed our faith for the fighting of wars in your age group. We have been successful in war. We excluded you from the ballot boxes where we elected those to whom we intrusted peace. We have failed at maintenance of peace.

It is time that we tried a full partnership between the experience of age and the daring vitality of youth. In the past. . . those who pulled the strings to manipulate political organizations did not want to contend with an informed age group in which 'rebellion against the status quo would be far more than a mere possibility.' The inclination has been to offer you everything -- our cooperation, our blessings, the right to advise and to be advised, the

right to make decisions if they are not contrary to ours, the right to fight, the right to die on battlefiels of your elders choosing-- everything except the right to vote."

The 18-Year-Old is Treated Legally As An Adult

Aside from the 18-year-old's obligation to serve in the military, exclusion from all forms of formal, compulsory education, and freedom to decide to work, his emancipation has been furthered by a number of federal laws.

One example of such a law involves employment as a federal civil servant. The minimum age for such a responsible post is 18. The fact that Federal relief for dependant's reaching 18 indicates the acceptance of the adult status of 18-year-olds. Under the penal code the Federal Courts, at the discretion of the Attorney General, can and do commit 18-year-olds to Federal prisons. In Chancery Courts, the chancellor may declare an 18-year-old competent and he may emancipate the individual concerned at his discretion.

In an extension of his remarks on the floor of the House of Representatives on October 16, 1963, the Honorable Ken Hechler of West Virginia, made the following statement:

"Under the law, if 18-year-olds can make wills, get married, get licenses to drive, and be sued, they ought to be considered competent to vote."

Training for Citizenship

A voting age of 18 would not be beneficial only for the youth of this country, but also for our basic democratic structure. President Kennedy's Commission on Registration and Voting Participation published a report in November, 1963. The following is an excerpt from this report.

"The Commission is concerned over the low-voter participation of the age group from 21 to 30. We believe that a major reason for this low turnout is that, by the time thay have turned twenty-one (the minimum voting age in 46 of the 50 states) many young people are so far removed from the stimulation of the educational process that their major interest in public affairs has waned."

Senator Hubert Humphrey, testifying before the Senate Judiciary Committee in 1953, said, "I think it is fair to say that more people are interested in politics and political issues and are better informed on those matters when they are between the ages of 18 and 21 than they are later on when they have longer been out of school, have become absorbed in the everyday business of earning a living, and have become subject to the political apathy which affects so many of our citizens."

18 year old voting will also have desirable effects upon both students and schools. Dr. John Anthony Scott, M.A. P.H.D., head of the history department of the Fieldston School in New York City, discusses this question.

"As a high school history teacher, I am particularly interested in the effect that lowering the voting age would have on the 18 year-old students. At the age of 18, most students are just completing their high school education and are entering upon independent adult life. Unfortunately, these young people must wait another three years before being able to participate actively in the governmental process. The civics and government courses taught in the high schools today lose much of the impact they could carry were the application of their teachings to be more immediate. It is this impact which would be greatly strengthened by allowing 18-year-olds to vote.

Although the present classes in civics and government play a substantial role in the training of youth, they lack the relevance necessary to stimulate a real educational experience. The basic problem is that there is too much emphasis on vague and theoretical ideas about "democracy" and not enough on the concrete realities of American politics. The individuals best qualified to improve this situation are the students themselves. Lowering the voting age to eighteen would provide the stimulus needed to effect this change. Students would then be concerned with developing a knowledge and awareness of political functions and actions. They would become far more interested in a through study of this material and would demand a practical and informative course. Their demands would bring about the necessary changes in the courses now being taught. The stimulus provided by the acquisition of the right to vote would come at a time when information and free and open discussion are most easily attained. The classes would take on real significance as the vital and important issues, both local and national, become matters of immediate and personal concern."

Brief History of 18-year-old voting

Under the Constitution, it is the prerogative of the states, within certain limitations, to establish qualifications for voting, including the minimum age. With few exceptions, a minimum age of 21 years has been standard practice in this country since colonial times. Most of the nations of Western Europe also have a minimum voting age requirement of 21 years. Of seventeen countries which have reduced the minimum voting age to 18, eight are in Latin America, and eight are in the Communist countries. The other is Israel.

Particularly since World War I, there have been a number of attempts to secure a reduction of the minimum voting age to 18 in some instances through a Federal constitutional amendment, and in others through amendments to state election codes by action of state legislatures. In two states, Georgia and Kentucky, such a reduction has been accomplished. Georgia lowered the minimum age qualification for voting to 18 in 1943; Kentucky followed suit in 1955.

In a report to the Senate on an amendment to lower the voting age the Senate Judiciary Committee stated, "The State of Georgia has furnished the United States and its sister states with laboratory proof of the desirability of reducing the minimum voting age to 18 years. A former Governor of the State (Ellis Arnall) attests to the success of that experiment."

In a poll taken by University of Kentucky political science students in 1960, 80% of the students vote in general elections as compared to 59% of persons of all ages. Although the States of Alaska and Hawaii do not permit 18 year olds to vote, the minimum voting ages are liberal: 19 for Alaskans and 20 for Hawaiians.

In a speech on the floor of the Senate on April 3, 1961 Senator Jennings Randolph of West Virginia said,"Since October 21, 1942 . . . all but 3 of the States have taken some legislative action to lower the voting age, many of them having made repeated efforts. In no less than 14 States. . . measures to lower the voting age to 18 have passed in at least one house of the legislature. In three States, Indiana, Pennsylvania, and Tennessee such measures have passed both houses, but have failed for lack of meeting other requirements of the amendment procedure."

During June and July 1953, a subcommittee on the Judiciary of the United States Senate held hearings on the merits of two proposed constitutional amendments. One of the proposals, S.J. Res. 53, submitted by William Langer of North Dakota, read as follows:

"Article-

"Section 1. The right of any citizen of the United States eighteen years of age or older to vote shall not be denied or abridged by the United States or by any State on account of age. The Congress shall have power to enforce this article by appropriate legislation.

"Sec. 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission."

In general, public opinion polls show a greater interest in the minimum voting age issue, and a larger percentage of persons in favor of lowering the voting age, in periods when the United States is at war and young men of 18 are being drafted, than at other times. An American Institute of Public Opinion (Gallup Poll) Survey in 1953 revealed that sentiment to cut the voting age to 18 had reached an all-time high, 63% being in favor and 31% opposed. Only once before, in 1943 at the height of World War II, had there been a majority (52%) favoring the reduction in age.

On May 25, 1953, Leonard W. Hall, Republican National Chairman, announced that both President Eisenhower and Vice President Nixon had endorsed entusiastically a proposal for an intensified campaign to lower the minimum voting age from 21 to 18. In the same press release, Mr. Hall said it was his aim to change the voting age either through action by the 47 other states individually or by a Federal constitutional amendment, which would require approval by 2/3 of the House and Senate and ratification by 3/4 of the states. (9)

At the present time there are several joint resolutions in the House and in the Senate proposing a constitutional amendment to lower the voting age to 18.

In the Senate, S.J. Res. 35, has been introduced by Senator Cannon of Nevada to lower the voting age to 18 in federal elections only. In the House of Representatives Congressmen Rosenthal (10), Diggs (11), Gallagher (12) have all introduced similar resolutions to lower the minimum voting age from 21 to 18 in all elections.

Also there is pending legislation in the state legislatures of both West Virginia and Michigan.

The history of attempts to lower the voting age to eighteen indicates that such proposals receive widespread approval and support within the individual states and from the Federal Government. America's young men and women justify this support by their willingness to take upon themselves the adult responsibilities both offered to and forced upon them by society.

Without question the members of this mature and well prepared age group are more than sufficiently qualified to assume the rights and responsibilities which have long been unjustly denied them. It is imperative that the young people of America now have some say in the decisions which affect their lives.

Footnotes

1. 1964 Statistical Abstract of the United States.

2. Figures from 1964 Statistical Abstract.

I. Retention Rate per 1000 Students Attending School From 5th Grade (1954) to 1st Year College (1962)

Grade:	5	6	7	8	9	10	11	12	H.S. Grad	College Freshman
	1000	980	979	948	919	855	764	684	636	336
Age:	11	12	13	14	15	16	17	18	18	19

3. Figures from 1964 Statistical Abstract

II. Persons 25 Years and Over: Years of School Completed Figures for 1962

Persons 25 & Over	Less than 5 Years	5-7	8	High School 1-3	High School 4	College 1-3	College 4 or more	Av. Years Completed
100%	7.8%	11.7%	16.6%	17.6%	28.3%	9.1%	9.0%	11.4

4. Same

5. See Footnote #2,

6. 1964 Statistical Abstract

III. Illiteracy Rate (Figures for 1959 in 1000's)

Age	Population	#Illiterate	%
14-24	25118	144	0.6
25-34	22700	252	1.1
35-44	23443	323	1.4
45-54	20135	442	2.2
55-64	15070	487	3.2
65 and over	14907	971	6.5

7. 1964 Statistical Abstract

9. New York Times, May 26, 1959.

10. Rosenthal's resolution in its entirety.

11. H. J. Res. 432.

12. H. J. Res. 941

File VR

August 3, 1965

Memorandum to Mr. Claude Desautels

From John Stewart

Clarence Mitchell asked that the Vice President's office send to you a list of principal civil rights leaders whom the President might wish to consider inviting to the signing of the voting rights act. To the best of Clarence Mitchell's knowledge, this list would cover those persons who worked for or supported the legislation through the Leadership Conference on Civil Rights.

Minnesota
Historical Society

www.mnhs.org